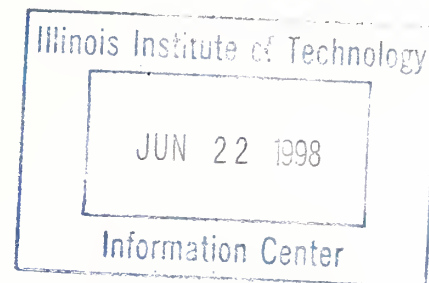


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1998

Illinois Register

Rules of Governmental Agencies

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Secretary of State

TABLE OF CONTENTS

June 19, 1998 Volume 22, Issue 25

PROPOSED RULES

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER EDUCATION AND THE BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES	
Procurement Rules Of The Chief Procurement Officer For Public Institutions Of Higher Education And The Board Of Trustees Of Illinois Public Universities	
44 Ill. Adm. Code 526	10719
ENVIRONMENTAL PROTECTION AGENCY	
Brownfield Redevelopment Grant Program	
35 Ill. Adm. Code 885	10790
Public Participation In The Air Pollution Control Permit Program	
35 Ill. Adm. Code 252	10807
ILLINOIS PUBLIC UNIVERSITIES, BOARD OF TRUSTEES	
Joint Rules Of The Illinois Public Universities: Procurement And Bidding	
44 Ill. Adm. Code 525, Repeal	10814

ADOPTED RULES

NATURAL RESOURCES, DEPARTMENT OF	
Illinois Weather Modification Control Act	
68 Ill. Adm. Code 900, Repeal	10845
POLLUTION CONTROL BOARD	
Tiered Approach To Corrective Action Objectives	
35 Ill. Adm. Code 742	10847
PUBLIC HEALTH, DEPARTMENT OF	
Control of Tuberculosis Code	
77 Ill. Adm. Code 696	10870
REVENUE, DEPARTMENT OF	
Energy Assistance Charge	
86 Ill. Adm. Code 516	10899
Payment Of Taxes By Electronic Funds Transfer	
86 Ill. Adm. Code 750	10904
Renewable Energy Resources And Coal Technology Development Assistance Charge	
86 Ill. Adm. Code 517	10907

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received	10912
-------------------------------	-------

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

98-292	Bob Kustra Commended	10914
98-293	GFWC Illinois Week	10914
98-294	Aquatic Week	10915
98-295	Aviation Safety Awareness Month	10915
98-296	Leadership Springfield Day	10916
98-297	Quentis Bernard Garth Day	10916
98-298	Water Awareness Month	10917
98-299	Women's Business Development Day	10917
98-300	Charles L. Gauwitz Day	10918
98-301	Vasa Order of America Days	10918
98-302	Endangered Species Protection Day	10919
98-303	Mack Rossie Lemons Day	10919
98-304	Mrs. Carolyn Neumann Day	10920
98-305	Mrs. Fay Dixon Day	10920
98-306	Mrs. Peggy Jurgensen Day	10920
98-307	Mrs. Susan Hill Day	10921
98-308	National College of Chiropractic Month	10921
98-309	American GI Forum Day	10922
98-310	Buckle Up Week	10922
98-311	Dr. H. James Mahan Day	10923
98-312	Haitian Flag Day Celebration 1998	10923
98-313	Willie B. Nelson Sr. Day	10924
98-314	Working Women's Awareness Week	10924
98-315	Alex A. Solerno Day	10924
98-316	Bobby Rahal Day	10925
98-317	Family Week	10926
98-318	Illinois Rivers Appreciation Month	10926

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	17, 1998 - Issue 16: Through	March	31, 1998
July	17, 1998 - Issue 29: Through	June	30, 1998
October	16, 1998 - Issue 42: Through	September	30, 1998
January	15, 1999 - Issue 3: Through	December	31, 1998 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1998

<u>Material Rec'd before Noon on:</u>	<u>Will be in Issue #:</u>	<u>Published on:</u>	<u>Material Rec'd before Noon on:</u>	<u>Will be in Issue #:</u>	<u>Published on:</u>
Dec. 23, 1997	1	Jan. 2, 1998	June 30, 1998	28	July 10, 1998
Dec. 31, 1997	2	Jan. 9, 1998	July 7, 1998	29	July 17, 1998
Jan. 6, 1998	3	Jan. 16, 1998	July 14, 1998	30	July 24, 1998
Jan. 13, 1998	4	Jan. 23, 1998	July 21, 1998	31	July 31, 1998
Jan. 20, 1998	5	Jan. 30, 1998	July 28, 1998	32	Aug. 7, 1998
Jan. 27, 1998	6	Feb. 6, 1998	Aug. 4, 1998	33	Aug. 14, 1998
Feb. 3, 1998	7	Feb. 13, 1998	Aug. 11, 1998	34	Aug. 21, 1998
Feb. 10, 1998	8	Feb. 20, 1998	Aug. 18, 1998	35	Aug. 28, 1998
Feb. 17, 1998	9	Feb. 27, 1998	Aug. 25, 1998	36	Sept. 4, 1998
Feb. 24, 1998	10	Mar. 6, 1998	Sept. 1, 1998	37	Sept. 11, 1998
Mar. 3, 1998	11	Mar. 13, 1998	Sept. 8, 1998	38	Sept. 18, 1998
Mar. 10, 1998	12	Mar. 20, 1998	Sept. 15, 1998	39	Sept. 25, 1998
Mar. 17, 1998	13	Mar. 27, 1998	Sept. 22, 1998	40	Oct. 2, 1998
Mar. 24, 1998	14	Apr. 3, 1998	Sept. 29, 1998	41	Oct. 9, 1998
Mar. 31, 1998	15	Apr. 10, 1998	Oct. 6, 1998	42	Oct. 16, 1998
Apr. 7, 1998	16	Apr. 17, 1998	Oct. 13, 1998	43	Oct. 23, 1998
Apr. 14, 1998	17	Apr. 24, 1998	Oct. 20, 1998	44	Oct. 30, 1998
Apr. 21, 1998	18	May 1, 1998	Oct. 27, 1998	45	Nov. 6, 1998
Apr. 28, 1998	19	May 8, 1998	Nov. 3, 1998*	46	Nov. 13, 1998
May 5, 1998	20	May 15, 1998	Nov. 10, 1998	47	Nov. 20, 1998
May 12, 1998	21	May 22, 1998	Nov. 17, 1998	48	Nov. 30, 1998*
May 19, 1998	22	May 29, 1998	Nov. 24, 1998	49	Dec. 4, 1998
May 26, 1998	23	June 5, 1998	Dec. 1, 1998	50	Dec. 11, 1998
June 2, 1998	24	June 12, 1998	Dec. 8, 1998	51	Dec. 18, 1998
June 9, 1998	25	June 19, 1998	Dec. 15, 1998	52	Dec. 28, 1998*
June 16, 1998	26	June 26, 1998	Dec. 22, 1998	1	Jan. 4, 1999*
June 23, 1998	27	July 6, 1998*	Dec. 29, 1998	2	Jan. 8, 1999

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

* Monday

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

1) Heading of the Part: Procurement Rules of the Chief Procurement Officer
for Public Institutions of Higher Education and the Illinois Public
Universities

2) Code Citation: 44 Ill. Adm. Code 526

3) Section Number: Proposed Action:

526.01	New
526.03	New
526.05	New
526.08	New
526.10	New
526.15	New
526.25	New
526.525	New
526.1010	New
526.1011	New
526.1012	New
526.1020	New
526.1030	New
526.1501	New
526.1510	New
526.1520	New
526.1545	New
526.1550	New
526.1580	New
526.2005	New
526.2010	New
526.2012	New
526.2015	New
526.2020	New
526.2025	New
526.2030	New
526.2035	New
526.2036	New
526.2037	New
526.2038	New
526.2040	New
526.2043	New
526.2044	New
526.2045	New
526.2046	New
526.2047	New
526.2050	New
526.2055	New
526.2060	New

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

526.2560	New
526.2570	New
526.2800	New
526.3005	New
526.4005	New
526.4010	New
526.4015	New
526.4020	New
526.4025	New
526.4030	New
526.4035	New
526.4040	New
526.4505	New
526.4510	New
526.4530	New
526.4535	New
526.4540	New
526.4545	New
526.4570	New
526.5013	New
526.5020	New
526.5023	New
526.5030	New
526.5035	New
526.5325	New
526.5520	New
526.5530	New
526.5540	New
526.5550	New
526.6500	New
526.6510	New
526.7000	New
526.7010	New
526.7015	New
526.7020	New
526.7030	New

4) Statutory Authority: [5 ILCS 500]

5) A Complete Description of the Subjects and Issues Involved: The proposed rules would replace the current procurement rules found at 44 Ill. Adm. Code 525 with a new set of rules to reflect the requirements of the new Illinois Procurement Code. The new rules describe rulemaking and procurement authority; the various methods of source selection, including the use of invitations for Bids and Requests for Proposals and a special procedure for processing professional and artistic service procurements;

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

until February 6, 1998.

The full text of the Proposed Rules begins on the next page:

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

type and duration of contracts; preferences for small business and sheltered workshops for the disabled; and various other elements of the procurement process.

6) Will this rulemaking replace any emergency rulemaking currently in effect?

No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand any State mandate or units of local government, school districts or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of this publication to:

Mr. Robert C. Baker
University of Illinois at Urbana-Champaign
506 S. Wright St., Rm. 207
Urbana, IL 61801
217-333-3582
FAX: 217-244-7879
e-mail: rbaker@uiuc.edu

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All would be affected in circumstances where they would seek to do business with the State universities that are promulgating these rules.

B) Reporting, bookkeeping or other procedures required for compliance: Vendors would have to provide directory type information and information regarding the supplies or services they provide if they want to be placed on the Universities' bid lists.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: The law on which these rules are based was not signed

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES

CHAPTER II: CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF HIGHER
EDUCATION AND BOARDS OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

PART 526

PROCUREMENT RULES OF THE CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND THE ILLINOIS PUBLIC UNIVERSITIES

SUBPART A: GENERAL

Section

526.01 Title
526.03 Authority
526.05 Policy
526.08 Implementation of This Part
526.10 Application
526.15 Definition of Terms Used in This Part
526.25 Property Rights

SUBPART B: PROCUREMENT RULES

Section

526.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section

526.1005 Procurement Authority of State Purchasing Officers
526.1010 Appointment of State Purchasing Officers
526.1011 Procurement Authority of the CPO
526.1030 Other Procurement Authority of the Universities

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section

526.1501 Higher Education Volume of Illinois Procurement Bulletin
526.1510 Publication of Higher Education Bulletin
526.1520 Required Use of Higher Education Bulletin
526.1545 Supplemental Notice
526.1550 Error in Notice
526.1580 Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

General Provisions

526.2005 Competitive Sealed Bidding
526.2010 Multi-Step Sealed Bidding
526.2012 Competitive Sealed Proposals
526.2020 Small Purchases
526.2025 Sole Economically Feasible Source Procurement
526.2030 Emergency Procurements
526.2035 Competitive Selection Procedures for Professional and Artistic Services
526.2036 Other Methods of Source Selection
526.2037 Tie Bids and Proposals
526.2038 Modification or Withdrawal of Bids or Proposals; Mistakes
526.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

526.2043 Suppliers
526.2044 Vendor List/Required Use
526.2045 Prequalification
526.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

526.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

526.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section

526.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section

526.2060 Duration of Contracts - General

SUBPART K: PROCUREMENT FILES

Section

526.2080 Written Determinations; Other Procurement Records

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

SUBPART L: CONTRACT WORKING CONDITIONS

Section
526.2560 Prevailing Wage
526.2570 Equal Employment Opportunity; Affirmative Action

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED SERVICES

Section
526.3005 Construction and Construction Related Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section
526.4005 Applicability
526.4010 Authority
526.4015 Method of Source Selection
526.4020 Request for Information
526.4025 Lease Requirements
526.4030 Purchase Option
526.4035 Rent Without Occupancy
526.4040 Local Site Preferences

SUBPART O: PREFERENCES

Section
526.4505 Procurement Preferences
526.4510 Resident Vendor Preference
526.4530 Correctional Industries
526.4535 Sheltered Workshops for the Disabled
526.4540 Gas Mileage
526.4545 Small Business
526.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

Section
526.5013 Conflicts of Interest Prohibited by the Code
526.5020 Exemptions
526.5023 Other Conflicts of Interest
526.5030 Revolving Door Prohibition
526.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

SUBPART Q: CONCESSIONS

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Section
526.5325 Granting of Concessions/Reporting

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
526.5520 Suspension
526.5530 Cancellation of Contracts
526.5540 Violation of Statute or Rule
526.5550 Protests

SUBPART S: GOVERNMENTAL JOINT PURCHASING

Section
526.6500 General
526.6510 No Agency Relationship

SUBPART T: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
526.7000 Severability
526.7010 University Furnished Property
526.7015 Inspections
526.7020 Record Retention
526.7030 No Waiver of Sovereign Immunity

AUTHORITY: Public Act 90-572 [30 ILCS 500]

SOURCE: Filed June 10, 1975; amended at 7 Ill. Reg. 7100, effective June 1, 1983; codified as Part 525 at 8 Ill. Reg. 19827; amended at 13 Ill. Reg. 16510, effective October 10, 1983; amended at 21 Ill. Reg. 9413, effective July 15, 1997; Part 525 repealed at 22 Ill. Reg. _____, effective _____; new Part 526 adopted at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 526.01 Title

This Part may be cited as the Higher Education Procurement Rules.

Section 526.03 Authority

This Part is promulgated by the Chief Procurement Officer for Public Institutions of Higher Education and the following higher education governing Boards of the State of Illinois: the Board of Trustees of the University of

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Western Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Northern Illinois University and the Board of Trustees of Illinois State University (hereinafter sometimes referred to individually as "University," "State University," or "Public University" and collectively as "Universities," "State Universities," or "Public Universities") in accordance with the provisions of the Illinois Procurement Code (the Code) [30 ILCS 500]. This Part may be amended in accordance with the Code and the Illinois Administrative Procedure Act [5 ILCS 100].

Section 526.05 Policy

The principles of competitive bidding and economical procurement practices shall apply to all purchases and contracts by or for the Universities, except as otherwise provided by law, this Part and other applicable rules.

Section 526.08 Implementation of This Part

For the purposes of this Part, any reference to Chief Procurement Officer or CPO means the Chief Procurement Officer for public institutions of higher education as defined in Section 1-15.15 of the Code unless the context indicates otherwise. Implementation by and within the Universities shall be consistent with this Part. Operational interpretations are to be made in a flexible manner designed to secure the Universities' needs and protect the Universities' interests.

Section 526.10 Application

- a) The Code and this Part apply to those procurements for which the vendors were first solicited on or after July 1, 1998.
- b) Procurements for which vendors were first solicited on or before June 30, 1998, shall be conducted pursuant to legal requirements in effect at the time of the solicitation. The terms and conditions and the rights and obligations under contracts resulting from such procurements shall not be impaired.
- c) A solicitation occurs on or before June 30, 1998, as follows:
 - 1) When advertising was required in the Official State Newspaper, the first advertisement must have run no later than June 30, 1998.
 - 2) When advertising was not required:
 - A) if the procurement was advertised, even though advertising was not required, the first advertisement must have run no later than June 30, 1998;

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- B) if the procurement was by direct solicitation by mail, the solicitation must have been postmarked or placed in the control of a private carrier no later than June 30, 1998;
 - C) if the procurement was by direct solicitation by facsimile transmission, the facsimile transmission must show a transmission date no later than June 30, 1998;
 - D) if the procurement was solicited in-person or by telephone, the solicitation must have occurred no later than June 30, 1998, and the University officer or employee who made the solicitation must state in writing when the procurement was discussed, and must name the party with whom the discussion took place.
- 3) In all circumstances, the solicitations must be for the procurement of particular needs. A general discussion to determine if there is any interest on the part of a University in the supplies or services of a vendor or vendors, or on the part of a vendor or vendors in providing the supplies or services, is not considered a solicitation.
 - d) The Code and this Part do not apply to:
 - 1) contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code (for purposes of this subsection (d)(1), "governmental bodies" includes the State Universities and their governing boards);
 - 2) grants;
 - 3) purchase of care;
 - 4) hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual;
 - 5) collective bargaining contracts;
 - 6) purchase of real estate; or
 - 7) contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the contracts are approved by the chief legal counsel to the University, or his or her designee, as provided in Section 1-10(b)(7) of the Code. Anticipated litigation is that which a University may prosecute or defend before a court or administrative body and actions necessary to prepare for and conduct the effective legal prosecution or defense of litigation, including, but not limited to, the retention of counsel, investigators, expert witnesses and court reporters.

Section 526.15 Definition of Terms Used in This Part

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined below, and

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

each term listed in this Section shall have the meaning set forth below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Bid" - The response to an Invitation for Bids.

"Bidder" - Any person who submits a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturers' names or catalogue numbers to describe the standard of quality, performance and other characteristics needed to meet University requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Code" - The Illinois Procurement Code [30 ILCS 500].

"Contract" - The term contract as used in the Code and this Part does not include: supplies or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds issued by or on behalf of any University, or contracts, other than for "concessions", where a University is a party, but has no financial obligation to the other parties.

"Contractor or Vendor" - The terms contractor and vendor are used interchangeably for the purposes of the Code and this Part.

"Day" - Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a University holiday, in which event the period shall run to the end of the next business day.

"Invitation for Bids" or "IFB" - The process by which a University requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids.

"Items" - Anything that may be procured under this Code.

"Proposal" - The response to a Request for Proposals.

"Purchase of Care" - A contract with a person for the furnishing of medical, educational, psychiatric, vocational, rehabilitation, social,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

or human services directly to a recipient of a State aid program or in connection with a medical, educational, psychiatric, vocational, rehabilitation, social, or human service program operated by a University. Purchase of care includes services provided or arranged to be provided by a vendor in conjunction with the purchase of care. Such services may include administrative and management services, enrollment, health education, grievance procedures, case management, utilization review, quality assurance, peer review, or marketing. Recipient of a State aid program includes applicants for a State aid program. Services include those that are a necessary adjunct to the provision of the State aid program services or the operation of the University program (e.g., services of an HMO or other managed care entity, case management, utilization review, quality management and administrative services). Services provided to an applicant for a State aid program necessary to determine eligibility for the program are included within this definition.

"Qualified Products List" - An approved list of supplies, services, or construction items described by model or catalogue numbers that, prior to competitive solicitation, the University has determined will meet the applicable specification requirements.

"Request for Proposals" or "RFP" - The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals.

"Responsible" - In the context of procurement procedures, the apparent ability to undertake and complete successfully the requirements of a contract.

"Responsive" - In the context of procurement procedures, the compliance in all meaningful, material respects with the procurement solicitation.

"Services" - The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance.

"Specification" - Any description of the physical, functional, or performance characteristics, or of the nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

"Specification for a Common or General Use Item" - A specification that has been developed and approved for repeated use in procurements.

"Supplies" - All personal property, including, but not limited to, equipment, materials, printing and insurance and the financing of those supplies.

"Unsolicited Offer" - Any offer other than one submitted in response to a solicitation.

Section 526.25 Property Rights

Receipt of an Invitation for Bids or other procurement document, or submission of any response thereto or other offer, confers no right to receive an award or contract, nor does it obligate a University in any manner.

SUBPART B: PROCUREMENT RULES

Section 526.525 Rules

- a) Procurement shall be conducted in accordance with the Code and this Part except as in this Section.
- b) A University may propose changes to this Part for consideration by the Universities and the CPO. Changes agreed upon by the Universities and approved by the CPO will be proposed by the CPO in a rulemaking under the Administrative Procedure Act.
- c) All proposed rules will be submitted to the Procurement Policy Board (Board) before or during the public comment period established under the Administrative Procedure Act. Rulemaking, except for emergency rulemaking, shall be scheduled so as to allow the Board at least 30 days to provide comments.
- d) Emergency rules will be submitted to the Board for review and comment with as much notice as is reasonably possible. A copy of the adopted emergency rules shall be provided to the Board. The Board shall be given opportunity to comment on rules proposed to replace the emergency rules.

SUBPART C: PROCUREMENT AUTHORITY

Section 526.1005 Procurement Authority of State Purchasing Officers

The State Purchasing Officers (SPOs) appointed under Section 526.1010 shall exercise the procurement authority created by the Code for their respective Universities except as otherwise provided by the Code. Each SPO shall have authority to make procurements for the use of his or her employing University

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

in accordance with the Code, this Part and the policies and procedures of the University. An SPO may appoint designees to assist in the performance of the duties and responsibilities of SPO. When an SPO activity is mentioned in a rule, the activity may be conducted by an SPO or a designee of an SPO unless the rule states that the authority to conduct such activity may not be delegated to an SPO designee.

Section 526.1010 Appointment of State Purchasing Officers

The executive head of each University shall recommend to the CPO one or more of the University's employees for appointment as a State Purchasing Officer (SPO). Upon appointment of the recommended employee or employees by the CPO, each named employee shall be an SPO for the University. In the absence of any appointed SPO, the CPO may exercise the procurement authority of an SPO on behalf of the University.

Section 526.1011 Procurement Authority of the CPO

The CPO shall have the procurement authority set forth in the Code. The CPO may appoint designees, including designees within the individual Universities, to assist in the performance of the duties and responsibilities of the CPO. When a CPO activity is mentioned in a rule, the activity may be conducted by the CPO or a designee of the CPO unless the rule states that the authority to conduct such activity may not be delegated to a CPO designee. CPO designees are not authorized to appoint subdesignees.

Section 526.1030 Other Procurement Authority of the Universities

- a) Each University retains for itself the authority to make procurements under the jurisdiction of the Capital Development Board, the Illinois Department of Transportation and the Department of Central Management Services in accordance with the Code, the rules adopted by those agencies, and other applicable statutes and rules governing such procurements.
- b) Each University retains for itself the authority to make procurements that are exempt from the application of the Code.

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section 526.1501 Higher Education Volume of Illinois Procurement Bulletin

The Higher Education Volume of the Illinois Procurement Bulletin (Higher Education Bulletin) will contain procurement information relating to procurements under the responsibility of the CPO for public institutions of higher education.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

or proposal is delivered at the time and place specified. All bids or proposals received after the specified time will be marked "received too late for consideration", signed by the SPO and returned unopened. Late modifications and late withdrawals will be treated as set forth in Section 526.2038.

3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.

4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

b) Extension of Time
1) The SPO may, prior to the date or time for submitting or modifying a bid or proposal, extend the date or time for the convenience of the University.

2) After opening bids or proposals, the SPO may request bidders or offerors to extend the time during which the University may accept the bids or proposals, provided that, with regard to bids, no other change is permitted.

c) Electronic and Facsimile Submissions

1) The Invitation for Bids or Request for Proposals may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB or RFP.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the University at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Facsimile submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Only One Bid or Proposal Received
If only one bid or proposal is received, an award may be made to the single bidder or offeror if the SPO finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

1) new bids or offers may be solicited, including under sole source (Section 526.2025) or emergency (Section 526.2030) procedures; or

2) the procurement may be canceled.

e) Alternate or Multiple Bids or Proposals

1) Alternate bids or proposals may be accepted if:

A) permitted by the solicitation and in accordance with

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Section 526.1510 Publication of Higher Education Bulletin

The Higher Education Bulletin will be published electronically and will be updated at least once per month and may be updated as frequently as daily. In the event a fee is charged for subscriptions to the Higher Education Bulletin, free access to the information published in the Higher Education Bulletin will be made available at public libraries or other sites open to the general public. The Higher Education Bulletin will also provide users with information on accessing the other volumes of the Illinois Procurement Bulletin.

Section 526.1520 Required Use of Higher Education Bulletin

Notices of procurement opportunities and other information required by the Code shall be published in the Higher Education Bulletin.

Section 526.1545 Supplemental Notice

Universities may place advertisements in the Official State Newspaper selected by the Department of Central Management Services or other publications to supplement notice in the Higher Education Bulletin.

Section 526.1550 Error in Notice

When a required publication contains an error, the error may be corrected by a single notice published in the Higher Education Bulletin.

Section 526.1580 Direct Solicitation

In addition to giving notice in the Bulletin, the Universities may directly contact prospective vendors by providing copies of Invitations for Bids, Requests for Proposals, or other procurement information. Direct solicitation may be oral or in writing, but care should be taken to ensure that all vendors solicited in this manner receive the same information as provided to others.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 526.2005 General Provisions

a) Late Bids or Proposals, Late Withdrawals and Late Modifications

1) Definition. Any bid or proposal received after the time and date for receipt, or at other than the specified location even if on time, is late. Any withdrawal or modification of a bid or proposal received after the time and date set for opening of bids or proposals is late.

2) Treatment. No late bid or proposal will be considered. It is the responsibility of the bidder or offeror to see that the bid

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

instructions in the solicitation; or

B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 526.2025 (Sole Economically Feasible Source Procurement) of this Part; or

C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications.

2) Multiple bids or proposals may be accepted if:

A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or

B) only one vendor responded, then, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.

f) Multiple Items

An Invitation for Bids or Request for Proposals may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, a "market basket" of items representative of the total requirement, or grand total of all items.

g) All or None Bids or Proposals

All or none bids or proposals may be accepted if the evaluation shows an all or none award to be the lowest cost or best value of those submitted.

h) Conditioning Bids or Proposals Upon Other Awards

Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

- 1) be rejected unless the vendor removes the condition; or
- 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFB's or RFP's provided the University need not delay procurement actions to accommodate the vendor's all or none condition.

i) Unsolicited Offers

1) Processing of Unsolicited Offers. The SPO may consider unsolicited offers.

2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the University.

3) Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part except if that unsolicited offer meets the requirements for a small (Section 526.2020), sole source (Section 526.2025),

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

or emergency (Section 526.2030) procurement.

j) Clarification of Bids and Proposals

The SPO may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification. A clarification is not an opportunity for discussion or for submission of best and final offers as authorized elsewhere in this Part.

k) Supplementary Purchases

1) For procurements other than for construction or construction-related professional services, supplementary purchases will be permitted under the following conditions: When the University issues an award after following the sealed bid or sealed proposal procedure, it may, at any time within 90 days thereafter, issue additional purchase orders or contracts to the same contractor or amendments to the original purchase order or contract for an additional quantity at the same unit price and on the same terms and conditions, if:

- A) The contractor indicates that the additional purchase orders or contracts will be accepted if issued.
- B) The market price of the commodities, services, or equipment in question has not gone down since the original purchase.
- C) The amount of the additional purchases is not of such magnitude as to constitute a substantial or material variation from the first purchase order or contract.

2) Notices of supplementary purchases in excess of the small purchase limits of Sections 20-20 and 35-35 of the Code shall be published in the next available Higher Education Bulletin.

3) Supplementary purchases of construction or construction related professional services will be permitted as provided in Section 526.3005(e).

l) Novation or Change of Name

1) Assignment. No University contract is transferable, or otherwise assignable, without the prior written consent of the SPO. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the University. Any purported assignment without prior written consent shall be null and void.

2) Change of Name. A vendor may submit a written request to change the name in which it holds a contract with the University. The name change shall not alter any of the terms and conditions of the contract or the obligations of the vendor.

m) Contracting for Installment Purchase Payments, Including Interest

Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.
- d) Bidder Submissions
- 1) Bid Form. An Invitation for Bids may include a form or format for submitting bids. If a form or format is specified, vendor shall submit bids as instructed.
 - 2) Special envelope for sealed bids. A special envelope may be furnished for return of a sealed bid. If a special envelope is used, such envelope containing the bid will show the following information on the outside:
 - A) Address to which the bid is to be mailed or delivered.
 - B) Date and time of the bid opening.
 - C) Requisition or bid number or other project identification.
 - D) Complete name and address of bidder.

e) Contents of Bids

- 1) Period of firm bid. Unless otherwise provided in bid information, the price of each bid must be kept firm for at least 60 days after the bid opening date. A bidder may specify the price will remain firm for a longer period than required by the bid information or this Part. If the bidder has not specified an expiration date for the price, the price will continue to remain firm until the bidder gives notice of intent to terminate the price. After such notice, the University will have 10 days to accept the bid at the original bid price.
- 2) Maintenance and repair service. If the bid information specifies that maintenance or repair service must be provided by the successful bidder, each bidder will specify in the bid whether the service will be provided by the bidder or through an arrangement with another identified person or firm.
- 3) Contract pricing. The bid information should define whether prices cover transportation, transit insurance, delivery, installation, and any other costs.
- 4) Taxes, licenses, assessments and royalties.
 - A) The contractor shall pay all current and applicable city, county, State and federal taxes, licenses or assessments, including federal excise taxes, due on the performance of the contract, including, without thereby limiting the foregoing, those required by the Federal Insurance Contribution Act and the Federal and State Unemployment Tax Acts, together with all royalties due for any proprietary items. The contractor is exclusively liable for the payment of taxes to the respective governments. In the event said taxes, licenses, assessments or royalties, or any part thereof, are in the first instance charged to the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- {30 ILCS 305}.
- n) Use of Source Selection Method that is Not Required
- If a University uses a method of source selection that it is not, by law, required to use (e.g., use of a competitive sealed bid for a small purchase), the University is not bound to strict compliance with the Code and rules governing the method of source selection used.
- o) Stringing or planning procurements to avoid use of competitive procedures (stringing) is prohibited. Periodic purchases of similar merchandise from several different manufacturers to maintain inventory for resale in a University retail operation is not stringing unless such purchases are planned to avoid use of competitive procedures.
- p) Confidential Data
- Vendors must clearly identify any information that is exempt from the disclosure requirement of the Illinois Freedom of Information Act [5 ILCS 140] and must request special handling of that material.

Section 526.2010 Competitive Sealed Bidding

- a) Application
- Competitive sealed bidding is the required method of source selection except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) Invitation for Bids
- 1) Use. An Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. An Invitation for Bids shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered and the maximum time for bid acceptance by the University;
 - B) the purchase description, evaluation factors, delivery or performance schedule and such inspection and acceptance requirements as are not included in the purchase description; and
 - C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 - 3) Incorporation by Reference. An Invitation for Bids may incorporate documents by reference provided that the Invitation for Bids specifies where such documents can be obtained.
- c) Bidding Time
- Bidding time is the period of time between the date of notice or distribution of the Invitation for Bids and the time and date set for

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

University, the contractor shall, upon timely demand of the University, pay the University the amount thereof, plus all penalties that may have accrued thereon.

B) The University is exempted by Section 3 of the Use Tax Act [35 ILCS 105/3] from paying any of the taxes imposed by that Act, and sales to the University are exempt by Section 2 of the Retailers' Occupation Tax Act [35 ILCS 120/2] from any of the taxes imposed by that Act. The Department of Revenue of the State of Illinois under Rule No. 15, issued August 9, 1961, has declared that sales of materials to construction contractors for conversion into real estate for schools or charities are not taxable retail sales. The SPO will furnish the vendor with an exemption certification statement upon request.

C) Federal excise tax. Bidders must not include in their prices any allowance for payment of federal excise tax, if the University is exempt from such taxes. If an order or contract is awarded for the purchase of an item that is subject to federal excise tax, the SPO will furnish the vendor with an exemption certificate upon request.

5) Federally financed purchases. For purchases financed in whole or in part by United States Government funds, the contractor and each subcontractor shall comply with all applicable federal statutes and regulations.

6) Bid Samples and Descriptive Literature.

A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

B) Unsolicited bid samples or descriptive literature are submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids and may not be utilized by the vendor to contest a decision or understanding with the University.

f) Public Notice

1) Publication. Every procurement for supplies and services that must be procured using an Invitation for Bids shall be publicized in the Higher Education Bulletin at least 14 days before the date set for bid opening (see Section 526.1510).

2) Public Availability. A copy of the Invitation for Bids shall be made available for public inspection.

3) Distribution. Invitations for Bids or Notices of Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall, at a minimum, indicate where Invitations for Bids may be obtained.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

generally describe what is needed and indicate the due date for bids. Where appropriate, the SPO may require payment of a fee or a deposit for supplying the Invitation for Bids.

g) Pre-Bid Conference

A pre-bid conference may be conducted to enhance understanding of the procurement requirements. The pre-bid conference shall be announced as a part of the Invitation for Bids notice. The conference may be designated as "attendance mandatory" or "attendance optional". The conference should be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the Invitation for Bids unless a change is made by written modification to the Invitation for Bids. Amendments shall be supplied to all those prospective bidders known to have received an Invitation for Bids. If the conference is mandatory, the amendment shall be supplied to attendees only.

h) Amendments to Invitations for Bids

1) Form. Amendments to Invitations for Bids shall be clearly identified and shall reference the portion of the IFB they amend.

2) Distribution. Except as provided in subsection (g) of this Section, amendments shall be made available to all prospective bidders known to have received an Invitation for Bids.

3) Timeliness. Amendments shall be made available within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such preparation, the amendment shall extend the response time. If necessary, the response time may be extended by facsimile transmission or telephone and confirmed in the amendment.

i) Pre-Opening Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

j) Receipt, Opening and Recording of Bids

1) Receipt. Upon its receipt, each bid and modification shall be date- and time-stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

2) Opening and Recording.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

A) Bids and modifications shall be opened publicly at the time, date and place designated in the Invitation for Bids. Opening shall be witnessed by a University employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price and such other information as is deemed appropriate by the SPO, shall be recorded and the name of each bidder read aloud or otherwise made available. The name of the witness shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

k) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids, except as permitted in the Code and this Part. The Invitation for Bids shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder.

2) Responsibility. Responsibility of prospective vendors is covered by Section 526.2046 (Responsibility) of this Part.

3) Responsiveness. A bid must conform in all material respects to the Invitation for Bids.

A) Product or Service Acceptability. The Invitation for Bids shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:

- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
- ii) examination of such elements as appearance, finish, taste, or feel;
- iii) other examinations to determine whether it conforms with any other purchase description requirements.

B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the Invitation for Bids. Any bidder's offering that does not meet the acceptability requirements shall be rejected.

4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (k), bids will be evaluated to determine which bidder offers the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

lowest cost to the University in accordance with the evaluation criteria set forth in the Invitation for Bids. Examples of such criteria include, but are not limited to, transportation cost, administrative cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible such evaluation factors shall be reasonable estimates based upon information the University has available concerning future use and shall treat all bids equitably.

5) Price Negotiation. Negotiations are permitted with the low bidder to obtain a lower price for the item bid.

1) Documentation of Award
Following award, a record showing the successful bidder shall be made a part of the procurement file.

m) Award to Other Than Low Bidder
The SPO, but not a designee, may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the University's best interest. The name of the bidder selected, pricing and the reasons for selecting this bidder instead of the low bidder must be published in the Bulletin.

n) Publicizing Award

The successful bidder shall be notified of award and such notification may be in the form of a letter, purchase order, or other clear communication. In procurements over the small purchase limit set in Section 526.2020 (Small Purchases) of this Part, notice of award shall be published in the next available Bulletin. If the contract is awarded to other than the lowest bidder, the notice shall include an explanation of the award.

Section 526.2012 Multi-Step Sealed Bidding

When it is considered impracticable to initially prepare a purchase description to support an award based on price, an invitation for Bids may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

Section 526.2015 Competitive Sealed Proposals

a) Competitive Sealed Proposals may be used whenever permitted by the Code and as described in this Part.

b) The Competitive Sealed Proposal method of source selection may be used to procure the following categories:

- 1) electronic data processing equipment, software and services;
- 2) telecommunications equipment, software and services;

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- 3) consulting services;
 - 4) employee benefits and management of those benefits;
 - 5) insurance and banking services; and
 - 6) public utility services not subject to tariff.
- c) Competitive Sealed Proposals may be used on a case-by-case basis when it is determined by the SPO that competitive sealed bidding is either not practicable or advantageous.
- 1) "Practicable" Distinguished From "Advantageous." As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and in this Section, "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the University's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the University's best interest. Before a procurement may be conducted by Competitive Sealed Proposals, the SPO shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the University.
 - 2) General Discussion.
 - A) If competitive sealed bidding is not practicable or is not advantageous, Competitive Sealed Proposals should be used.
 - B) The key element in determining whether use of a proposal is advantageous is the need for flexibility. The Competitive Sealed Proposal method differs from competitive sealed bidding in two important ways:
 - i) it permits discussions with competing offerors and changes in their proposals, including price; and
 - ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.
 - C) Where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.
 - 3) When Competitive Sealed Bidding Is Not Practicable.

Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule and all other terms and conditions of the invitation for bids. Factors to be considered in determining whether competitive

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

sealed bidding is not practicable include:

- A) whether the contract needs to be other than a fixed-price type;
 - B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;
 - C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;
 - D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality and contractual factors in order to determine the most advantageous offering to the University. Quality factors include technical and performance capability and the content of the technical proposal; and
 - E) whether the primary consideration in determining award may not be price.
- 4) When Competitive Sealed Bidding Is Not Advantageous.
- A determination may be made to use Competitive Sealed Proposals if it is determined that it is not advantageous to the University, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:
- A) if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the University; and
 - B) whether the factors listed in subsection (c)(3) of this Section are desirable, in conducting a procurement, rather than necessary; if they are, then such factors may be used to support a determination that competitive sealed bidding is not advantageous.
- d) Content of the Request for Proposals
- The Request for Proposals shall be prepared in accordance with Section 526.2010 (Competitive Sealed Bidding), provided that it shall also include:
- 1) a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and
 - 2) a statement of when and how price should be submitted.
- e) Receipt and Registration of proposals
- 1) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals. Opening shall be witnessed by a University employee or by any other person present but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror, the number of modifications received,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.

- 2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only University personnel and contractual agents may review the proposals prior to award.

f) Evaluation of Proposals

- 1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.

- 2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required.

g) Proposal Discussions with Individual Offerors

- 1) Purposes of Discussions. Discussions are held to:

- A) promote understanding of the University's requirements and the offerors' proposals; and
- B) facilitate arriving at a contract that will be most advantageous to the University, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.

- 2) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

- 3) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or change the University's requirements and require another submission of best and final offers. The scope of the best and final offer and the number of vendors allowed to participate shall be defined by the SPO. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.

h) Award

An award shall be made by the SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the University, based on the factors set forth in the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Request for Proposals.

i) Publicizing Awards

- 1) The successful offeror shall be notified of award and such notification may be in the form of a letter, purchase order, or other clear communication. Notices of contracts awarded through the Sealed Proposal process shall be published in the next available Higher Education Bulletin.

- 2) When the SPO does not have sufficient information about available supplies or services to issue a Request for Proposals, the SPO may issue a Pre-solicitation Request for Information inviting vendors to submit non-price information about the availability of specified types of supplies or services. Public notice of the Pre-solicitation Request for Information shall be published in the Higher Education Bulletin at least 14 days before the date set for the receipt of information. The submission of information by a vendor in response to a Pre-solicitation Request for Information is not a prerequisite for that vendor to respond to a subsequent IFB or Request for Proposals for the types of supplies or services for which information was solicited, and the issuance of a Pre-solicitation Request for Information does not commit the University to make any procurement of supplies or services of any kind. Confidential information will not be accepted from a vendor in response to a Pre-solicitation Request for Information.

Section 526.2020 Small Purchases

a) Application

- 1) Individual procurements of \$10,000 or less for supplies or services (including printing), other than professional and artistic, and \$30,000 or less for construction, may be made using the method of source selection determined by the SPO to be most appropriate to the circumstances.
- 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made using the method of source selection determined by the SPO to be most appropriate to the circumstances.
- 3) The CPO shall announce any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter. That percentage change shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter.

- b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

determined in good faith, shall be utilized. Where the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.

- c) If only a unit price or hourly rate is known, the contract shall be considered small if it has a not-to-exceed limit applicable to the type of procurement (see subsection (a) above).
- d) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.
- e) If there is a repetitive need for small procurements of the same type, the University should consider issuing a competitive sealed bid or proposal for procurement of those needs.

Section 526.2025 Sole Economically Feasible Source Procurement

a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 526.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 526.2030 (Emergency Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
- 2) a sole supplier's items are needed for trial use or testing;
- 3) a sole supplier's item is to be procured for commercial resale;
- 4) regulated public utility services are to be procured;
- 5) the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;
- 6) the procurement of the media for advertising;
- 7) the procurement of art or entertainment services or athletic events;
- 8) the procurement of radio and television broadcast rights; and
- 9) procurements related to mandated activities of educational, research, public service, or athletic organizations of which the University is a member. Such procurements may include, but are not limited to, dues and membership fees, travel and lodging and facility usage fees.

c) Changes

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract, that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder may be procured under this Section.

d) SPO to Determine

The determination as to whether a procurement shall be made as a sole source shall be made by the SPO. The determination and the basis therefor shall be in writing. The SPO may specify the application of such determination and the duration of its effectiveness.

e) Publication of Sole Source Notice

The SPO shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

- 1) If no challenge to this determination is made by a vendor within the 14 day period, the SPO may execute a contract with that vendor.

- 2) If a challenge is received, the SPO shall consider the information and shall commence a competitive procurement if the SPO determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.

f) Negotiation in Sole Source Procurement

The SPO shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

- 1) the vendor's name;
- 2) the amount and type of the contract;
- 3) what was procured; and
- 4) the identification number of the contract file.

g) Publicizing Awards

Notices of contracts awarded on a sole source basis shall be published in the next available Higher Education Bulletin. Where publication of the contract price would have a detrimental impact on future procurements of similar supplies or services, as determined in writing by the SPO, the contract price will not be published with the notice of award but such notice shall indicate that price information is available to the public, upon request, from the SPO who conducted the procurement.

Section 526.2030 Emergency Procurements

a) Applications

The provisions of this Part apply to every procurement over the small purchase limit set in Section 526.2020 (Small Purchases) of this Part made under emergency conditions.

b) Definition of Emergency Conditions

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- 1) A procurement may be made under this Section in situations in which:
 - A) public health or safety, including the health or safety of any particular person, is threatened;
 - B) immediate repairs are needed to University property to protect against further loss or damage to University property, or to prevent loss or damage to University property;
 - C) immediate action is needed to prevent or minimize serious disruption in University services;
 - D) action is needed to ensure the integrity of University records;
 - E) a supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the University than instituting a competitive procurement under the provisions of this Code for the supplies or services;
 - F) items are available on the spot market or at discounted prices that are for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;
 - G) rare items, such as articles of historical value or art collections, are available for a limited time;
 - H) the opportunity to obtain entertainment performances is available for a limited time;
 - I) immediate action is necessary to avoid lapsing or loss of federal or donated funds;
 - J) it is necessary to extend an existing contract for such limited period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the University; or
 - K) the need for services to protect or further University interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing disadvantages to the University.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, or if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may be made.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- c) Scope of Emergency Conditions
Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency.
- d) Authority to Make Emergency Procurements
A University may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods, provided that, whenever practical, existing University or State contracts shall be utilized. The determining SPO shall be responsible for making the filings required in Section 20-30 of the Code.
- e) Source Selection Methods
Any method of source selection, whether or not identified in this Part, may be used to conduct the procurement in emergency situations. The procedure used shall be selected to assure that the required items are procured in time to meet the emergency. Such competition as is practicable shall be obtained.
- f) Determination and Record of Emergency Procurement
1) Determination. The SPO shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor. Such determinations shall be kept in the contract file of the SPO.
2) Record. An affidavit of each emergency procurement shall be filed with the CPO and the Auditor General within 10 days after the procurement and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
- 3) Notice of the emergency procurement shall be published in the next available Higher Education Bulletin. Where publication of the contract price would have a detrimental impact on future procurements of similar supplies or services, as determined in writing by the SPO, the contract price will not be published with the notice of award but such notice shall indicate that price information is available to the public, upon request, from the SPO who conducted the procurement.

Section 526.2035 Competitive Selection Procedures for Professional and Artistic Services

- a) Application
 - 1) The provisions of this Section apply to every procurement of professional and artistic services except those subject to the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535].

- 2) "Professional and artistic services" means those services provided under contract to a University by a person or business, acting as an independent contractor, qualified by education, experience and technical ability.

b) Professional and artistic services are further defined as follows:

- 1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.
- 2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.
- 3) "Qualified by technical ability" means the individual who would perform the services demonstrates a high degree of skill or ability in performing services that are the same, similar, or closely related in nature to those specified in the Request for Proposals.
- 4) An essential element distinguishing professional services from other services is confidence, trust and belief in not only the ability, but the talent, of the individual performing the service.
- 5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional and artistic services contracts.
- 6) If the professional or artistic contract is with a firm or other business entity, the individuals whose education, experience and technical ability provided the basis on which the firm or other business entity was selected must meet the qualifications.
- 7) When a University requires services that meet the requirements of this subsection (b), the competitive selection procedures described in this Section must be followed. Services that do not meet the requirements of this Section must be procured in accordance with the other methods of source selection authorized by the Code and this Part.
- c) The categories of services enumerated below shall be considered and procured as professional and artistic services. With regard to other services, the SPO may determine whether the factors identified in subsection (b), when applied to particular services to be procured, require such services to be procured as professional and artistic under these competitive selection procedures, or as services that are subject to one of the other methods of source selection authorized by the Code and this Part. The following categories are examples of disciplines that would always be professional and artistic services:
 - 1) law,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- 2) accounting,
- 3) medicine,
- 4) dentistry, and
- 5) clinical psychology.
- d) Architect, engineering and land surveying services shall be procured pursuant to the procedures of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]. Such procurements are not subject to the procedures for other professional services established in the Code or this Part.
- e) Conditions for Use of Competitive Selection Procedures.

Except as authorized under Section 20-25 (Sole Economically Feasible Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 526.2020 (Small Purchases) of this Part.
- f) Prequalification. The CPO shall maintain a list of prequalified professional and artistic vendors in accordance with Section 526.2045 of this Part. Persons may amend statements of qualifications at any time by filing a new statement. Failure of a professional and artistic vendor to prequalify shall not be cause for rejection of a proposal.
- g) Public Notice of Competitive Selection Procedures
 - 1) Notice of the need for professional and artistic services shall be made by the SPO in the form of a Request for Proposals.
 - 2) Notice of the Request for Proposals shall be published in the Higher Education Bulletin at least 14 days before the proposals are due.
 - 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.
- h) Request for Proposals
 - 1) Contents. The Request for Proposals shall be in the form specified by the CPO and shall contain at least the following information:
 - A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
 - i) the name of the offeror, the location of the offeror's

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the service item offered. The record of proposals shall be open to public inspection after award of the contract.

- C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only University personnel and contractual agents may review the proposals prior to award.
- D) Proposals of offerors who are not awarded the contract shall not be open to public inspection.
- 2) Transmission to the SPO. The CPO will forward timely proposals to the responsible SPO of the University along with any pertinent information contained in the files of the CPO regarding the vendors who submitted proposals.

- k) Discussions
 - 1) Discussions Permissible. The SPO may conduct discussions with any offeror to:
 - A) determine in greater detail such offeror's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance and the relative utility of alternative methods of approach.

The SPO may allow changes to the proposal based on those discussions.

- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the University conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made.

- 1) Selection of the Best Qualified Offerors
 - After conclusion of validation of qualifications, evaluation and discussion, the SPO shall rank the acceptable offerors in the order of their respective qualifications.

- m) Evaluation of Pricing Data
 - Pricing submitted for all acceptable proposals shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, the SPO may award to that vendor.
- 2) If the price of the most qualified vendor is not low and if it does not exceed \$25,000, the SPO may award to that vendor.
- 3) If the price of the best qualified vendor exceeds \$25,000, the SPO, but not a designee, must state why a vendor other than the low priced vendor was selected and that determination shall be published in the Bulletin.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

principal place of business and, if different, the place of performance of the proposed contract;

- ii) if deemed relevant by the SPO, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;
- iii) the abilities, qualifications and experience of all persons who would be assigned to provide the required services;
- iv) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Proposals;
- v) a plan giving as much detail as is practical explaining how the services will be performed;

- G) price;
- H) the factors to be used in the evaluation and selection process and their relative importance; and
- I) a plan for post-performance review.

- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the Request for Proposals. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:

- A) the plan for performing the required services;
- B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- C) the personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
- D) a record of past performance of similar work.

- i) Pre-Proposal Conference
 - A pre-proposal conference, if appropriate, shall be conducted in accordance with Section 526.2010(g) (Pre-Bid Conference). Such a conference may be held anytime prior to the date established for submission of proposals.

- j) Delivery, Receipt and Handling of Proposals
 - 1) Proposals shall be submitted to and opened by the CPO.
 - A) Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.

- B) Opening shall be witnessed by a University employee or by any other person present, but the person opening proposals

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

n) Negotiation and Award of Contract

1) General. The SPO shall attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The SPO may, in the interest of efficiency, negotiate with other vendors, while negotiating with the best qualified vendor.

2) Elements of Negotiation. Contract negotiations shall be directed toward:

A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;

B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and

C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.

3) Successful Negotiation of Contract with Best Qualified Offeror.

A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the SPO based on the circumstances of the particular procurement, including, but not limited to, the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement and the agency's identified budget.

4) Failure to Negotiate Contract with Best Qualified Offeror.

A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefor shall be placed in the file. The SPO shall advise such offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the SPO may enter into negotiations with the next most qualified offeror.

C) Nothing in this Section shall prohibit the SPO from making a selection that represents the best value, qualifications, price and other relevant factors established in the Request for Proposals being considered. The SPO may, in considering best value, determine the proposal from a fully qualified vendor that submitted the lowest price to be the best value

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

o) Notice of Award without further evaluation.

Written notice of award shall be public information and made a part of the contract file. The CPO shall publish the names of the responsible decision makers of the University, the name of the University, the successful vendor, a contract reference number or other identifier and the value of the contract. Publication shall be in the next available issue of the Bulletin.

Section 526.2036 Other Methods of Source Selection

a) Split Award

1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.

2) The SPO shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.

b) Multiple Award

1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the University is obligated to order all of its actual requirements from those vendors.

2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 526.2010 (Competitive Sealed Bidding), Section 526.2015 (Competitive Sealed Proposals), Section 526.2020 (Small Purchases) and Section 526.2030 (Emergency procurements), as applicable.

3) The University shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.

4) If a multiple award is anticipated, the solicitation shall state this fact as well as the criteria for award.

5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the SPO.

c) Master Contracts

1) A master contract contains agreed contractual terms and conditions established for the convenience of the parties to be

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

used in conjunction with a subsequent procurement and processed in accordance with the requirements of the Code and this Part. A master contract is not a procurement. It creates no obligation on the part of the University to procure from the vendor nor does it create an authorization for a University to order based on that master contract, except as provided by subsection (c)(2).

- 2) Orders may be placed against master contracts without use of any prescribed method of source selection for convenience of processing small procurements. Universities with reasonably defined repetitive small needs that, over the course of a fiscal year, are likely to exceed the small purchase amount set in Section 20-20 of the Code and this Part should consider a competitive method of source selection to contract for those repetitive needs.

d) Auction

Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.

e) Non-governmental Joint Purchase

If the SPO determines in writing that joint procurement with an organization not eligible for joint purchasing under the Governmental Joint Purchasing Act is in the best interests of the University, the SPO may enter into an agreement with such an organization for the joint procurement of any item covered by the Code. Any method of source selection may be used and may be modified or adapted to meet the needs of the non-State entity.

f) Federal Requirements

The SPO for a University receiving federal funds, grants, or loans may conduct procurements in accordance with federal requirements necessary to receive or maintain those federal funds, grants or loans.

g) Foreign Country Procurement

Procurements to meet the needs of University programs located in foreign countries shall comply with the Code and this Part whenever practicable. The SPO shall maintain a record of such action.

h) Donations

When a procurement will have the majority of funding from a donation, the terms of which donation require use of particular procurement or contracting procedures, the SPO may follow those procedures, but shall follow the Code and this Part whenever practicable.

Section 526.2037 Tie Bids and Proposals

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation and represent the low price.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- b) Tie bids or proposals will be treated as follows:

- 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5). "Illinois resident vendor" has the meaning given in Section 526.4510 (Resident Vendor Preference) of this Part.
- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the University shall be given additional consideration in determining responsibility if the SPO determines that dealing with a vendor that has knowledge of University requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the supplies or services offered, the vendor offering the best quality will be accepted.
- 4) If there is no significant difference in responsibility and no difference in quality of the supplies or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the requisitioning University require delivery as early as possible.
- 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the SPO determines that splitting the award among two or more of the tied bidders is in the best interest of the University. Awards may be split if all affected bidders agree, if splitting is feasible given the type of supplies or services requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

c) Records

Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:

- 1) the identification number of the solicitation;
- 2) the supply, service, or construction item; and
- 3) a listing of all the bidders and the prices submitted.

Section 526.2038 Modification or Withdrawal of Bids or Proposals; Mistakes

- a) Modification or withdrawal. A bidder or offeror may withdraw or

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

modify a bid or proposal if notice of the withdrawal or modification is received by the SPO before the latest time specified for receipt of bids or proposals. Any such modification or withdrawal, however, must be made in writing and received by the SPO prior to the scheduled bid or proposal opening. When time is of the essence, the SPO may agree to receive modifications or withdrawals by printed form conveyed by facsimile or by telephone. An originally signed written confirmation of a telephone modification or withdrawal shall be mailed or delivered by the bidder or offeror on the same day. Withdrawal of bids or proposals after bid or proposal opening will not ordinarily be permitted; however, in those cases where, in the judgment of the University, based on clear and demonstrable evidence, the bidder or offeror has made a bona fide error in the preparation of the bid or proposal and such error will result in a substantial loss to the bidder or offeror, an exception may be made.

b) Minor informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the University (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The SPO shall waive such informalities or allow the bidder to correct them depending on which is in the best interest of the University. Minor informalities include insignificant mistakes where the effect on price, quantity, quality, delivery, or contractual conditions is negligible.

c) Errors where intended correct bid or proposal is evident. If the mistake and the intended correct bid or proposal are clearly evident on the face of the bid or proposal document, the bid or proposal shall be corrected to the intended correct bid or proposal. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors and arithmetical errors.

d) Determinations required. When a bid or proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared by the SPO showing that relief was granted or denied in accordance with this Part.

Section 526.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

a) Scope of this Section

The provisions of this Section shall govern the cancellation of any solicitations whether issued by the University under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method and rejection of bids or proposals in whole or in part.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

b) Policy

Any solicitation may be canceled when the SPO believes cancellation to be in the University's best interest. Nothing shall compel the award of a contract.

c) Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening

1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.

2) Prior to opening, a solicitation may be canceled in whole or in part when the SPO determines in writing that such action is in the University's best interest for reasons including, but not limited to:

A) the University no longer requires the supplies or services;

B) the University no longer can reasonably expect to fund the procurement; or

C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

3) When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all vendors known to have received the solicitation.

4) The notice of cancellation shall:

A) identify the solicitation;

B) briefly explain the reason for cancellation; and

C) where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar supplies or services.

d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening

1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the SPO determines in writing that such action is in the University's best interest. Such reasons may include, but are not limited to:

A) the supplies or services being procured are no longer required;

B) ambiguous or otherwise inadequate specifications were part of the solicitation;

C) the solicitation did not provide for consideration of all factors of significance to the University;

D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;

E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or

F) there is reason to believe that the bids or proposals may

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- b) State and Federal Surplus Warehouses under the jurisdiction of the Department of Central Management Services (30 ILCS 605/7a requires that surplus furniture be considered before any purchase of new furniture valued at \$500 or more per piece);
- c) Qualified workshops for the disabled;
- d) State Agencies and other governmental units described in Section 1-10(b)(1) of the Code.

Section 526.2044 Vendor List/Required Use

- a) How to Apply to be Placed on Vendor List
Vendor lists are maintained for various service and supply classifications. To be included on a vendor list, a person should submit a request to the SPO indicating the types of services or supplies for which solicitation information is requested.
- b) Application Form
1) An applicant will be required to provide information concerning its form of organization and bank references, and may be required to provide sources of supply or other information to determine its responsibility and capability. The current Illinois Department of Human Rights (DHR) eligibility number is to be provided, as well as the Taxpayers Identification Number (TIN), also known as the Federal Employers Identification Number (FEIN), or Social Security Number. Applicant will be furnished with a copy of the Vendor Financial Disclosure Form, which must be completed and submitted with each bid, proposal, or offer made to the University unless the bid, proposal, or offer is made in connection with a procurement that is exempt from the Code, within the small purchase limit for the type of procurement, a sole source procurement, or an emergency procurement.
- 2) Applicants who are minorities, females, or persons with disabilities are encouraged to identify their status for certification purposes under the Business Enterprise for Minorities, Females and Persons with Disabilities Act.
- c) Addition of Vendor to List
Upon submission to the SPO of a completed application, the applicant's name may be placed on the active vendor list for the supply or service classification requested. The SPO will specify in writing the reasons why any application is not accepted. The sending of an invitation for Bids or other solicitation does not constitute a final or conclusive determination as to the responsibility and capability of a vendor. The bidder's qualifications and responsibility will be subject to continuous review, and the SPO may make a supplementary investigation as to the responsibility or qualification of any vendor at any time.
- d) Use of List
Invitations for Bids and other solicitations will be sent to vendors

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- e) Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals
1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
- 2) Notice in Solicitation. Each solicitation shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the University as provided in this Section.
- 3) Reasons for Rejection.
Reasons for rejecting a bid or proposal may include, but are not limited to:
A) the vendor that submitted the bid or proposal is non-responsible as determined under Section 526.2046 (Responsibility) of this Part;
B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
C) the proposal ultimately (that is, after any opportunity has passed for altering or clarifying the proposal) fails to meet the announced requirements of the University in some material respect;
D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the Invitation for Bids; or
E) the proposed price is clearly unreasonable.
- 4) Notice of Rejection. Upon request, bidders or offerors whose bid or offer has been rejected shall be advised of the reasons for rejection.

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 526.2043 Suppliers

The University may contract with any qualified source of supply, but shall consider the following special sources, from which procurements may be made without notice and competition:

- a) Correctional Industries;

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

on the vendor list for supplies or services in question, except in the following cases:

- 1) The vendor does not sell the particular commodity or equipment.
- 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The SPO may, if he/she determines that the best interest of the University would be served, rotate the selection from the list on any equitable basis.
- 3) When the SPO determines that the best interests of the University will be served by limiting vendors to those in defined geographic areas (example: purchases of ready-mix concrete, perishables and equipment requiring immediate service).

Section 526.2045 Prequalification

a) General

- 1) Opportunities to prequalify shall be announced in the Higher Education Bulletin. The announcement will specify whether the prequalification will be a condition of bidding or being awarded a contract.
- 2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
- 3) Except in the case of professional and artistic services, distribution of and responses to a solicitation may be limited to prequalified vendors and award of a contract maybe denied because a vendor was not prequalified.
- 4) Prequalification will include the submission of the Vendor Financial Disclosure Form.

b) Professional and Artistic Services

- 1) When professional or artistic services are needed on a recurring basis, the CPO shall actively solicit persons engaged in providing such services to submit statements of qualifications in a prescribed format that shall include at a minimum the following information:
 - A) technical education and training;
 - B) general or special experience, certifications, licenses and memberships in professional associations, societies, or boards; and
 - C) an expression of interest in providing a particular professional or artistic service.
- 2) Categories for prequalification will include, but are not limited to, those listed in Section 526.2035 of this Part.
- c) Qualified Products Lists. Qualified products lists are treated in Section 526.2050 (Specifications and Samples) of this Part.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Section 526.2046 Responsibility

a) Application

Contracts are to be made only with responsible vendors. If there is doubt about responsibility, and if a bond or other security would adequately protect the University's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.

b) Standards of Responsibility

Factors to be considered in determining whether the standard of responsibility has been met include financial responsibility, insurability, effective equal opportunity compliance, payment of prevailing wages, if required by law, capacity to produce or sources of supply, performance record in the business or industry, ability to provide required maintenance service and other matters relating to the bidder's probable ability to deliver in the quality and quantity and within the time required under the contract, if it is awarded to the bidder.

c) Information Pertaining to Responsibility

The prospective vendor shall supply information requested by the SPO concerning the responsibility of such vendor. The University may supplement this information from other sources and may require additional documentation at any time. If such vendor fails to supply the requested information, the SPO shall base the determination of responsibility upon any available information, or may find the prospective vendor non-responsible.

d) Written Determination of Non-Responsibility Required

If a vendor who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the SPO. The final determination shall be made part of the procurement file.

e) Affiliated Companies

Vendors that are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing vendor that has been determined not responsible will also be determined to be not responsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier determination of non-responsibility.

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section 526.2047 Security Requirements

- a) An SPO may require that a vendor furnish bid, proposal, or performance security on University contracts. Whenever security is required, except as provided herein, the solicitation will clearly indicate the type and amount of security. The cost of providing security will be

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- borne by the vendor unless otherwise stated in the solicitation.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois and having a rating acceptable to the University.
 - c) Unless the amount is set by law, the SPO will determine the amount, in dollars or percentage of contract price, that will adequately protect the University's interests. That amount will vary depending on the type of procurement and the risks and potential losses associated with delay or failure to complete the project, and for other such reasons.
 - d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for similar reasons.
 - e) The vendor's source of supply may also be required to furnish security. If the vendor does not have a stock of the commodity in question in the amount required or the facilities to produce the item in such amount, the University may, in addition, require the vendor to have the source of supply furnish security acceptable to the University, conditioned on such source supplying the vendor as required in the solicitation.
 - f) Bid or Proposal Security
 - 1) Bid or proposal deposit. The solicitation may require each vendor to file a bid or proposal deposit, the amount of which will not ordinarily exceed 5% of the bid or proposal amount.
 - 2) Retention or use of bid or proposal deposit. The bid or proposal deposit will be considered as security for full performance of all obligations imposed on the vendor under the law and this Part, including the obligation to keep the price, bid, or proposal firm for as long a period as specified in the solicitation and the obligation to file performance security, if required, when a contract is awarded. If the vendor fails to perform any such obligations, the University will negotiate the bid or proposal deposit and retain from the proceeds thereof an amount sufficient to compensate it for damages suffered. The University may retain the bid or proposal deposit as liquidated damages if the solicitation so specifies.
 - 3) Disposition of bid or proposal deposit. If a vendor is not one of the three lowest qualified vendors, the bid or proposal deposit will be returned to the vendor as soon as is practicable after the bid or proposal opening. The three lowest qualified vendors' deposits will be returned as soon as possible after the contract is awarded or, if performance security is required, as soon as the successful vendor has filed acceptable performance security.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 526.2050 Specifications and Samples

- a) Responsibilities Regarding Specifications
The SPO shall write the necessary specifications except as noted below.
- b) Procedures for the Development of Specifications
 - 1) All procurements shall be based on specifications that accurately reflect the University's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.
 - 2) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate University needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 3) Any specifications or standards adopted by business, industry, not-for-profit organization, or governmental unit may be adopted by reference.
 - 4) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the University's requirements.
- c) Brand Name or Equal Specification
 - 1) Brand name or equal specifications may be used when the SPO determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the University's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the University's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.
 - 3) Unless the SPO determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

or performance characteristics that are required.

- 4) Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance and characteristics desired and is not intended to limit or restrict competition. "or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that the product is equal is on the vendor.

d) Brand Name Only Specification

- 1) Determination. A brand name only specification may be used only when the SPO makes a written determination that only the identified brand name item or items will satisfy the University's needs.
- 2) Use. Brand name alone may be specified in order to fill medical prescription needs, to stock University retail-type operations, to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the CPO. A University may, pursuant to an authorized competitive procedure, select a particular vendor to provide supplies or services for a specified period of time, and for that period the supplier of additional, related and updated supplies and services may be limited to the selected vendor or the brand initially selected.

- 3) Competition. The SPO shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 526.2025 (Sole Economically Feasible Source Procurement) of this Part.

e) Qualified Products List

- 1) Use. A qualified products list may be developed by the SPO when testing or examination of the supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy University requirements.
- 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
- 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

provided by law, trade secrets, test data and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.

f) Proven Products

The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.

g) University Required Samples

- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
- 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the University's right to require adherence to specifications.
- 3) No payment will be made for University required samples. Samples not destroyed or consumed by examination or testing will be returned upon request and at vendor's expense. Such request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

h) Product Demonstration

Any vendor may request time and space to demonstrate a product or service. Agreement to allow such demonstration will be solely at the University's discretion and will not entitle the vendor to a contract nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.

i) Specifications Prepared by Other Than University Personnel

- 1) Specifications may be prepared by other than University personnel, including, but not limited to, consultants, architects, engineers, designers and other drafters of specifications for public contracts when the SPO determines that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the University and provided the SPO retains the authority for final approval of the specifications. Contracts for the preparation of specifications by other than University personnel shall require the specification writer to adhere to University requirements.
- 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the President of the University, and not a designee, determines in writing that it would be in the best interest to accept such a bid or proposal from that person.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

SUBPART I: CONTRACT TYPE

Section 526.2055 Types of Contracts

- a) Scope
This Section contains descriptions of types of contracts and limitations as to when they should be utilized by the University in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract. A cost-plus-percentage-of-cost contract is one in which the vendor selects the good or service on which the vendor's percentage is applied.
 - 1) A percentage mark-up from an agreed price list is not a cost-plus-a-percentage-of-cost contract.
 - 2) A percentage mark-up from the price of a good or service selected by the University or another vendor under contract to the University is not a cost-plus-a-percentage-of-cost contract.
- c) Types of Fixed-Price Contracts
 - 1) Firm Fixed-Price Contract. A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the vendor's cost of performing the work specified in the contract.
 - 2) Fixed-Price Contract with Price Adjustment
 - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price adjustments due to modifications to the work. The formula or other basis by which the adjustment in the vendor's price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:
 - i) changes in the vendor's labor agreement rates as applied to an industry or area (such as are frequently found in contracts for the purchase of coal);
 - ii) changes due to rapid and substantial price fluctuations that can be related to an accepted index (such as contracts for gasoline, heating oils and dental gold alloy); and
 - iii) in requirement contracts, where a vendor is selected to provide all of the University's needs for the items

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- specified in the contract, when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).
- B) If the contract permits unilateral action by the vendor to bring about the condition under which a price increase may occur, the University shall have the right to reject the price increase and terminate without cost the future performance of the contract.
- d) Cost-Reimbursement Contracts
 - 1) Determination Prior to Use
 - A) A cost-reimbursement type contract may be used only when the SPO determines in writing that such a contract is likely to be less costly to the University than any other type or that it is impracticable to obtain the items through any other type of contract.
 - B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.
 - 2) Cost Contract. A cost contract provides that the vendor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.
 - 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the vendor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract.
 - 4) Cost Incentive Contracts
 - A) General. A cost-incentive type of contract provides for the reimbursement to the vendor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the vendor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the vendor controls cost in the performance of the contract).
 - B) Fixed-Price Cost-Incentive Contract. In a fixed-price

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may not exceed the ceiling price. The vendor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the vendor suffers a loss.

C) Cost-Reimbursement Contract with Cost-Incentive Fee.

In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the University is obligated to reimburse the vendor. The vendor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the vendor.

e) Performance Incentive Contracts

In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the vendor to a bonus, while late completion may entitle the University to a price decrease.

f) Time and Materials Contracts; Labor Hour Contracts

Time and Materials Contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. Such contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior University approval.

g) Definite Quantity and Indefinite Quantity Contracts

1) Definite Quantity. A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

of supplies or services either at specified times or when ordered.

2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the University is obligated to order and may also provide for a maximum quantity provision that limits the University's obligation to order.

3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the University to order all its actual requirements during a specified period of time.

h) Leases

A lease is a contract for the use of supplies or real property under which title will not pass to the University at any time, except pursuant to an option to purchase.

i) Recovery Contracts

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the University. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

j) Option Provisions

When a contract is to contain an option for renewal, extension, or purchase, notice of such provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the University's option.

k) State Produced Supplies and Services

Notwithstanding any provision in any contract, supplies or services available from State programs, such as Correctional Industries, may be ordered without violating any contract.

l) Extraordinary Quantities

Notwithstanding any provision in any contract, the University reserves the right to take bids separately if a particular quantity requirement arises that exceeds the University's normal needs or ordering requirements.

m) Energy Conservation

The CPO may authorize an IFB, RFP, or sole source negotiation for energy conservation measures whereby the University would make payment based on utility cost savings. Such contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

- n) Printing Contracts for Annual Reports
Contracts for the printing of annual reports that the University is required by statute to submit to the Governor will provide that such reports will be printed in the form specified by the Governor.

SUBPART J: DURATION OF CONTRACTS

Section 526.2060 Duration of Contracts - General

- a) General
- 1) A multi-term contract for a term of up to 10 years is authorized when determined by the SPO to be in the best interest of the University.
 - 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10 years.
 - 3) The length of a lease for real property or capital improvements shall be in accordance with Section 526.4025.
- b) Subject to Appropriation
The contractual obligation of both parties in each fiscal period succeeding the first is subject to appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of such contracts shall be canceled without penalty to, or further payment being required by, the University. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly.
- c) Multi-Term Contract Procedure
The solicitation shall state:
- 1) the proposed term;
 - 2) the amount of supplies or services required for the proposed contract period;
 - 3) the type of pricing requested (e.g., firm for term);
 - 4) how award will be determined.

d) Renewals

- 1) Where the original procurement specifically called for an initial term plus options to renew, the renewal options may be exercised without further procurement activity, provided that the initial term and the exercised renewal options do not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the options are reserved solely to the University. Any renewal that requires amendment or modification of a material term or condition of the contract shall be treated as a new contract.
- 2) Where the original procurement was silent as to renewals, the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

renewal must be treated as a new contract. Such renewal will start a new term not to exceed 10 years.

- 3) Where a renewal will result in the total term, counting the initial term and any previous renewals, to exceed 10 years, the renewal must be treated as a new contract. Such renewal will start a new term not to exceed 10 years.

SUBPART K: PROCUREMENT FILES

Section 526.2080 Written Determinations; Other Procurement Records

All written determinations required under Article 20 of the Code and Subparts E, F, G, H, I, and J of this Part shall be placed in the contract files maintained by the CPO. Except as otherwise specified in this Part, all other procurement records shall be placed in the contract files maintained by the SPO.

SUBPART L: CONTRACT WORKING CONDITIONS

Section 526.2560 Prevailing Wage

- a) In order to be considered responsible under Section 526.2046, vendors of the following classifications of services must certify to the University that wages to be paid to their employees are no less, and fringe benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the proposed contract with the University is to be performed:
 - 1) Printing;
 - 2) Janitorial services, window washing, food services and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.
- b) Vendors awarded contracts or subcontracts on University public works projects shall agree to comply with the requirements of the Prevailing Wage Act [820 ILCS 130].
- c) Prevailing wages, benefits and conditions will be determined by the Illinois Department of Labor.

Section 526.2570 Equal Employment Opportunity; Affirmative Action

Section 7-105A of the Illinois Human Rights Act (IHRA) [775 ILCS 5/7-105A] authorizes the Department of Human Rights (DHR) to promulgate policies, rules and regulations to implement the provisions of the IHRA applicable to eligible vendors and public contractors. DHR has promulgated rules, 44 Ill. Adm. Code 750, that establish public contractor and eligible vendor duties, obligations and reporting requirements and are applicable under this Part. This Part requires that certain employers register with DHR in order to be eligible for

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

the award of certain public contracts (44 Ill. Adm. Code 750.Appendix A).

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED SERVICES

Section 526.3005 Construction and Construction Related Services

a) General Procedures

1) In the case of contracts for construction of buildings or for other construction work in or about buildings or grounds where the entire estimated cost of such work exceeds the amount stipulated by Section 20-20 of the Code, prospective contractors, as well as architects and engineers employed in connection with such projects, may be prequalified to determine their responsibility (for architects, engineers and land surveyors, see the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535]). If the total estimated cost of such work exceeds the amount stipulated by Section 30-30 of the Code, separate specifications shall be prepared for all equipment, labor and materials in connection with, at a minimum, the following five subdivisions of work to be performed:

- A) Plumbing.
- B) Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of such systems.
- C) Ventilating and distribution systems for conditioned air, including the testing and balancing of such systems.
- D) Electrical wiring.
- E) General contract work.

2) The specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five (or more) subdivisions of work. All contracts awarded for any part thereof shall award the five (or more) subdivisions of such work separately to responsible and reliable contractors engaged in these classes of work. Such contracts, at the discretion of the University, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the University prior to bidding as the prime subdivision of work, with the provision that all payments will be made directly to the contractors for the five (or more) subdivisions of such work upon compliance with the conditions of the contract. Any contract may be let for one or more buildings in any project to the same contractor. Specifications shall require, however, that unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for all of the buildings included in the specifications.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

b) Request for Payment Form Specified by University
To bill the University for remodeling, renovation, or construction work done, the vendor must submit a payment request in the form specified by the University.

c) Periodic Payments

When provided in the contract, periodic payments can be made during the course of such work, upon a certificate of a licensed architect or engineer indicating the proportionate amount of the total work completed satisfactorily.

d) Retained Percentage

When periodic payments are made, the University shall retain a fixed percentage, specified in the contract, to insure faithful completion of the contract. No amount of funds, in addition to those provided for in a contract for repairs, maintenance, remodeling, renovation, or construction, may be obligated or expended unless the additional work to be performed or materials to be furnished are germane to the original contract. Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amount, be in excess of the contract amount as provided in Section 30-35(b) of the Code unless they have received the prior written approval of an official pre-designated by the University with the appropriate level of authority to make such determination. Notices of additional expenditures or obligations in excess of the small purchase limit of Section 20-20 of the Code shall be published in the next available Higher Education Bulletin.

e) Improvements to Leased Real Estate

The procedures set forth in this Part shall apply, as appropriate, to contracts for improvements to real estate leased to the University.

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 526.4005 Applicability

Except as otherwise authorized by law, real property leases and capital improvement leases are subject to, and shall be procured by, the Universities in accordance with the Code and this Part.

Section 526.4010 Authority

SPOs shall have the authority to procure leases. SPOs will establish standards and criteria for leased space procurement and space assignment to meet the financial and administrative objectives needed to most efficiently and effectively provide adequate space to operate the University in accordance with its mission.

Section 526.4015 Method of Source Selection

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Leases shall be procured by a Request for Information (RFI) process except that the process need not be used in any of the following circumstances:

- a) Property of less than 10,000 square feet.
- b) Rent of less than \$100,000 per year.
- c) Duration of less than one year that cannot be renewed.
- d) Specialized space available at only one location.
- e) Renewal or extension of leases in effect before July 1, 1998, provided that:
 - 1) the CPO determines in writing that the renewal or extension is in the best interest of the University;
 - 2) the CPO submits his or her written determination and the renewal or extension to the Board;
 - 3) the Board does not object in writing to the renewal or extension within 30 days after its submission; and
 - 4) the CPO publishes notice of the renewal or extension in the Higher Education Bulletin as provided in Section 526.4020(a)(2).
- f) Leases with governmental units when deemed by the CPO to be in the best interest of the University.

Section 526.4020 Request for Information

- a) RFI Form

When required, an RFI shall be issued and shall include:

 - 1) the type of property to be leased;
 - 2) the proposed uses of the property;
 - 3) the duration of the lease;
 - 4) the preferred location of the property; and
 - 5) a general description of the configuration desired.
- b) Public Notice

Public notice of the RFI for the availability of real property to be leased shall be published in the Higher Education Bulletin at least 14 days before the date set forth in the request for receipt of responses and shall also be published in similar manner in a newspaper of general circulation in the community or communities where the University is seeking space.
- c) Response

The RFI response shall consist of written information sufficient to show that the respondent can meet minimum criteria set forth in the RFI.
- d) Negotiation and Determination

The SPO may enter into discussions with respondents of the RFI for the purpose of clarifying University needs and the information supplied by the respondents. On the basis of the information supplied and discussions, if any, an SPO shall make a written determination identifying the responses that meet the minimum criteria set forth in the RFI. Negotiations shall be entered into with all qualified

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

respondents for the purpose of securing a lease that is in the best interest of the University.

- e) Reporting and Filing
 - 1) When the lowest response by price is selected, a written report of the negotiation shall be retained in the lease files and shall include the reasons for the final selection.
 - 2) When the lowest response by price is not selected, the SPO shall forward to the CPO, along with the lease, notice of the identity of the lowest respondent by price and written reasons for the selection of a different response. The CPO shall publish the written reasons in the next volume of the Higher Education Bulletin.

Section 526.4025 Lease Requirements

- a) Length of Leases
 - 1) Maximum term. Except where a longer term is authorized by law, leases shall be for a term not to exceed 10 years and shall include a termination option in favor of the University after 5 years.
 - 2) Renewal Option. Leases may include a renewal option but an option to renew may be exercised only when the SPO determines in writing that renewal is in the best interest of the University and publishes a notice of the intent to exercise the option in the Higher Education Bulletin at least 60 days prior to the exercise of the option.
- b) Subject to Appropriation

All leases shall recite that they are subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease. This provision applies to only those leases that are funded in whole or in part by funds appropriated by the Illinois General Assembly.

Section 526.4030 Purchase Option

Initial leases of all space in entire, free-standing buildings shall include an option to purchase exercisable by the University, unless the SPO determines that inclusion of such purchase option is not in the University's best interest and makes that determination in writing along with the reasons for making that determination and publishes the written determination in the Higher Education Bulletin. Leases from governmental units and not-for-profit entities are exempt from the requirements of this Section.

Section 526.4035 Rent Without Occupancy

Except when deemed by the Board to be in the best interest of the University,

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

no University may incur rental obligations before having occupancy or possession of the space rented. For the purposes of this Section, the terms "occupancy" and "possession" shall have the same meaning.

Section 526.4040 Local Site Preferences

Upon the request of the chief executive officer of a unit of local government, leasing preferences may be given to sites located in enterprise zones, tax increment districts, or redevelopment districts.

SUBPART O: PREFERENCES

Section 526.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts.

Section 526.4510 Resident Vendor Preference

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.
- b) In breaking a tie bid or proposal as described in Section 526.2037, an Illinois resident vendor shall be given the award.
- c) An Illinois resident vendor shall be allowed a preference as against a non-resident vendor equal to any in-state vendor preference given or required by the state of the non-resident vendor.

Section 526.4530 Correctional Industries

The CPO, in consultation with the Department of Corrections, shall, on a case-by-case basis, determine which supplies or services available from Correctional Industries meet the University's requirements and may be given preference. Procurements from Correctional Industries may be made without notice and competition.

Section 526.4535 Sheltered Workshops for the Disabled

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Various supplies and services are available from qualified workshops for the disabled under a program managed by the Department of Central Management Services. Such procurements may be made without notice and competition. Information regarding the workshops is available from the Department of Central Management Services.

Section 526.4540 Gas Mileage

- a) Specifications for the purchase of new passenger automobiles shall require compliance with minimum gas mileage requirements established in Section 45-40 of the Code. As used in this Section, passenger automobile does not include station wagons, vans, four-wheel drive vehicles, emergency vehicles, police or fire vehicles.
- b) The SPO may exempt a procurement from the requirement of subsection (a) when a demonstrated need has been presented to the SPO in writing.
- c) The CPO may require use of a uniform form or format for the SPO's determination that an exemption is warranted.

Section 526.4545 Small Business

a) Small Business Specialist

The CPO shall designate one of the SPOs to be responsible for engaging a small business specialist, who shall have the duties set forth in Section 45-45(e) of the Code, and who shall also act as coordinator of small business initiatives among the Universities. The designated SPO shall make the small business annual report to the General Assembly required under Section 45-45(f) of the Code.

b) Small Business Set-Asides

Based upon recommendations of the small business specialist and the Universities, and in conformity with Section 45-45 of the Code, the CPO may designate as small business set-asides a fair proportion of supply and service contracts under the jurisdiction of the CPO for public institutions of higher education for award to small businesses in Illinois.

Section 526.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

Each University shall be responsible for its own compliance with the requirements of the Business Enterprise Act for Minorities, Females and Persons with Disabilities [30 ILCS 575].

SUBPART P: ETHICS

Section 526.5013 Conflicts of Interest Prohibited by the Code

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

NOTICE OF PROPOSED RULES

a) Any bid, proposal, or offer the acceptance of which would result in any of the following types of contracts prohibited by Section 50-13 of the Code will be subject to rejection.

1) Office or Employment. Section 50-13(a) of the Code provides:

It is unlawful for any person holding an elective office in this State, holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois, or who is an officer or employee of the State of Illinois, or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person, to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

2) Financial Interests. Section 50-13(b) of the Code provides:

It is unlawful for any firm, partnership, association, or corporation, in which any person as described in subsection (a) is entitled to receive more than 7 1/2% of the total distributable income or an amount in excess of the salary of the Governor, to have or acquire, obtain, any such contract or direct pecuniary interest therein.

3) Combined Financial Interests. Section 50-13(c) of the Code provides:

It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive more than 15%, in the aggregate, of the total distributable income or an amount in excess of 2 times the salary of the Governor, to have or acquire any such contract or direct pecuniary interest therein.

b) For the purposes of this Section, an individual has a direct pecuniary interest in a contract when the individual is owed a payment or otherwise receives a direct financial benefit in conjunction with performance of a contract, and would include finders fees and commission payments.

c) For the purposes of this Section, "distributable income" means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, which is distributed to those entitled to receive a share of such income.

d) This Section does not apply to those elected to local government, including school district, offices nor does it apply to those elected to federal offices in this State. This Section does apply to those

elected to an office of Illinois State government.
e) Additional exceptions to the application of this Section are listed in Section 50-13(f) of the Code.

Section 526.5020 Exemptions

If the SPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the SPO shall forward to the CPO the name of the vendor and a description of the proposed contract and of the potential conflict and shall state why an exemption should be granted. The CPO shall decide whether to disapprove the contract or submit the file to the Governor or the Governor's designated ethics board to determine whether an exemption should be granted in accordance with Section 50-20 of the Code.

Section 526.5023 Other Conflicts of Interest

a) Except as otherwise specified in the Public Officer Prohibited Activities Act [50 ILCS 105], no member of the University's governing board shall be directly or indirectly interested in any contract to be made by the Board for any purposes whatsoever.

b) No contract will be awarded to a University officer or employee or to a firm, partnership, association, or corporation, the owner or principal owners or major officers or primary employees of which are officers or employees of the University, unless such contract is deemed essential to University operations and is approved by the President of the University (or designee) and such approval is filed with the contract.

c) No contract will be awarded to a member of the immediate family of an officer or employee of the University or to a firm, partnership, association, or corporation, the owner or principal owners or major officers or primary employees of which are members of the immediate family of officers or employees of the University, unless such contract is deemed beneficial to University operations and is approved by the President of the University (or designee) and such approval is filed with the contract.

Section 526.5030 Revolving Door Prohibition

As provided in Section 50-30 of the Code, the CPO, SPOs and all of their designees whose principal duties are related to University procurement are prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to their former employer. The prohibition applies to persons who terminate an affected position after January 15, 1999, and includes, but is not limited to, submitting bids, proposals, offers, or contract documents on their own behalf or on behalf of any vendor.

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

Section 526.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

a) For the purposes of the financial disclosures required of vendors under Section 50-35 of the Code, the following terms shall have the same meaning as in the Code and as further defined below:

- 1) "Distributive or Distributable Income" - The income of a company after expenses, including employee salaries and bonuses and retained earnings, which is distributed to those entitled to receive a share of such income.
 - 2) "Personal Services" - Any contract for services subject to this Code, including, by way of example, professional and artistic services, repair services, cleaning and guard services.
 - 3) "Competitively Bid" - A contract let pursuant to Section 20-10 of the Code.
 - 4) "Subject to Federal 10K Reporting" - Subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934.
 - 5) "10K Disclosure" - A report required under Section 13 or 15(d) of the Securities Exchange Act of 1934.
- b) Once a disclosure is made in relation to a particular contract, the disclosure need not be repeated if the contract is amended.

c) 10K Disclosures

Any vendor subject to Federal 10K reporting requirements may submit its 10K to the University in satisfaction of the disclosure requirement of Section 50-35(b) of the Code provided the vendor also identifies the specific sections or parts in the 10K disclosure where the University may find information, if any, pertaining to those who have an ownership interest or an interest in the distributable income of the vendor or its parent, or other information that the vendor knows or reasonably should know identifies a potential conflict of interest with the State. If the financial interest or conflict of interest information requested by the University is not in the 10K, but is in a document referenced in the 10K, or in a document that may be submitted to the SEC in conjunction with or in lieu of the 10K, then that additional documentation shall be provided as well.

d) The disclosures of each successful bidder or offeror shall become a part of the publicly available contract file. Any potential conflict of interest identified by the public and brought to the attention of the CPO or SPO shall be investigated.

SUBPART Q: CONCESSIONS

Section 526.5325 Granting of Concessions/Reporting

In accordance with the requirements of Section 53-25 of the Code, all

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

University contracts granting concessions shall be reduced to writing and reported in the Higher Education Bulletin no less frequently than annually. Reports concerning the licensing or other disposition of University intellectual property will be in the form designated for the annual reports of such activity to the Association of University Technology Managers or such other standard format as may be developed by the Universities.

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 526.5520 Suspension

a) Application

This Section applies to all debarments or suspensions of vendors from consideration for award of contracts under the Code.

b) The SPO may suspend a vendor from doing business with the University or with respect to specific types of supplies or services. A suspension may be issued upon a showing the vendor violated the Code or this Part, or failed to conform to specifications or terms of delivery.

c) When the SPO finds cause exists for suspension, a notice of suspension, including a copy of such determination, shall be sent to the suspended vendor. Bids or proposals will not be solicited from the suspended vendor, and, if received, will not be considered during the period of suspension.

d) A vendor may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.

e) The CPO may debar a vendor. Debarment is the permanent suspension of a vendor from doing business with the University. A debarment may only take place in those instances involving bribery or attempted bribery of a State of Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals received from the debarred vendor will not be considered.

f) The CPO shall maintain a master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. Such records will be maintained for a period of at least three years following the end of the suspension or debarment. Such public information may be considered in determining responsibility.

Section 526.5530 Cancellation of Contracts

a) In any of the following cases the SPO shall have the right to

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

terminate or rescind any contract entered into under this Part:

- 1) The successful vendor fails to furnish a satisfactory performance bond within the time specified.
- 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the purchasing agency.
- 3) Any supplies or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's supplies or services, this shall be grounds for termination or rescission, even though the vendor offers to replace the supplies or services promptly.
- 4) The vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of supplies or services to the University such that it cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any of his contracts with the University.
- 5) The vendor should be adjudged bankrupt; enter into receivership or make a general assignment for the benefit of creditors due to insolvency; disregard laws, rules, or instructions of the SPO; or act in violation of any provision of the contract; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- 6) Any other breach of contract or any other unlawful act by the vendor.

b) Cancellation for Fraud, Collusion, Illegality, Etc.

The University may cancel any contract it established if there is sufficient evidence to show that:

- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
- 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.

c) Withholding Money to Compensate University for Damages

If a contract is terminated or rescinded under this Section, the University may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the University for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his part on which the cancellation is based.

d) Damages

The damages for which the University may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:

- 1) the additional cost of supplies or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of supplies or

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

services; and

- 4) any other damages caused by the vendor's breach of contract or unlawful act.

Section 526.5540 Violation of Statute or Rule

- a) Determination that Solicitation or Award Violates Law
If the CPO or the SPO finds that the solicitation or proposed award is in violation of statute or rule, the CPO or the SPO may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) Determination that Contract Violates the Code or this Part
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the University unless statute or rule allows the University to modify, ratify, or take other corrective action.
- c) Effect of Declaring a Contract Null and Void
In all cases in which a contract is voided, the University shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

Section 526.5550 Protests

- a) Protest Resolution by the SPO
An actual or prospective bidder, offeror, or vendor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to, specifications preparation, bid solicitation, or award.
- b) Complaint to SPO
Complainants should seek resolution of their complaints initially with the SPO who issued the solicitation. Such complaints may be made orally or in writing.
- c) Filing of Protest
 - 1) Protests shall be made in writing to the chief business officer of the University and shall be filed within 14 days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the chief business officer. Protests filed after the 14 day period shall not be considered. In regard to a protest regarding specifications, the protest must be received within 14 days after the date the solicitation was issued, and in any event must be received by the University at the designated address before the date for opening of bids or proposals.
 - 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

following:

- A) the name and address of the protester;
 - B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
 - C) a statement of reasons for the protest; and
 - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) Requested Information; Time for Filing
Any additional information requested by the University shall be submitted within the time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the chief business officer may result in resolution of the protest without consideration of that information.
- e) Decision by the Chief Business Officer
A decision on a protest shall be made by the chief business officer as expeditiously as possible after receiving all relevant requested information.
- f) Effect of Judicial or Administrative Proceedings
If an action concerning the protest has commenced in court, the chief business officer shall not act on the protest.

SUBPART S: GOVERNMENTAL JOINT PURCHASING

Section 526.6500 General

In an effort to make the procurement process more efficient, State (including Universities) and other governmental units (including not-for-profit entities authorized by law to participate in joint purchasing) may agree to utilize each others' procurement contracts. This authority is governed by this Subpart and the Governmental Joint Purchasing Act [30 ILCS 525] (Joint Purchasing Act).

Section 526.6510 No Agency Relationship

In any joint procurement situation, each University and governmental unit must issue its own purchase order, accept its own deliveries and make its own payments. No University shall have any obligation to the vendor for payment of orders placed by other Universities or other governmental units.

SUBPART T: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 526.7000 Severability

If any provision of this Part or any application thereof is held invalid, such

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

invalidity shall not affect other provisions or applications of this Part that can be given effect without such invalid provision or application.

Section 526.7010 University Furnished Property

If the University provides any property to the vendor in furtherance of the contract, such property shall remain the property of the University but may be consumed by the vendor if necessary to complete the contract. Vendor will issue a receipt for the property and will be responsible for its safekeeping and for return of unused property to the University.

Section 526.7015 Inspections

- a) Inspection of Plant or Site
The University may enter a vendor's or subcontractor's plant or place of business to:
 - 1) inspect supplies or services for acceptance by the University pursuant to the terms of a contract;
 - 2) audit the books and records of any vendor or subcontractor;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;
 - 5) determine if the contract is being performed in accordance with its terms; and
 - 6) for any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services
 - 1) Solicitation and Contractual Provisions.
University contracts may provide that the University may inspect supplies and services at the vendor's or subcontractor's facility and perform tests to determine whether the supplies or services conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.
 - 2) Procedures for Trial Use and Testing.
The University may establish operational procedures governing the testing and trial use of equipment, material and other supplies, and the application of resulting information and data to specifications or procurements.
- c) Conduct of Inspections
 - 1) Inspectors.
Inspections or tests shall be performed so as not to unduly delay the work of the vendor or subcontractor. No inspector other than the SPO may change any provision of the specifications or the contract without written authorization of the SPO. The presence or absence of an inspector shall not

CHIEF PROCUREMENT OFFICER FOR PUBLIC INSTITUTIONS OF
HIGHER EDUCATION AND BOARDS OF TRUSTEES OF
ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED RULES

relieve the vendor or subcontractor from any requirements of the contract.

- 2) Location. When an inspection is made in the plant or place of business of a vendor or subcontractor, such vendor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any vendor or subcontractor shall be performed at reasonable times.
- d) Inspection of Construction Projects
On-site inspection of construction shall be performed in accordance with the terms of the contract.

Section 526.7020 Record Retention

Books and records that relate to performance of a University contract, including subcontracts, and that support amounts charged to the University shall be maintained:

- a) by a vendor, for three years from the date of final payment under the prime contract;
- b) by a subcontractor, for at least three years from the date of final payment under the subcontract; and
- c) by a vendor and subcontractor for such longer period of time as is necessary to complete ongoing or announced audits.

Section 526.7030 No Waiver of Sovereign Immunity

Nothing in this Part shall be deemed to be a waiver of sovereign immunity.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Brownfields Redevelopment Grant Program

- 2) Code Citation: 35 Ill. Adm. Code 885

- 3) Section Numbers:

<u>Section Numbers:</u>	<u>Proposed Action:</u>
885.100	New Section
885.105	New Section
885.110	New Section
885.200	New Section
885.205	New Section
885.210	New Section
885.215	New Section
885.220	New Section
885.225	New Section
885.230	New Section
885.235	New Section
885.240	New Section
885.245	New Section
885.250	New Section
885.255	New Section
885.260	New Section
885.300	New Section
885.305	New Section
885.310	New Section
885.315	New Section
885.320	New Section
885.325	New Section
885.330	New Section
885.400	New Section
885.405	New Section

- 4) Statutory Authority: Section 58.13 of the Illinois Environmental Protection Act [415 ILCS 5/58.13]

- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules set forth procedures and criteria to govern a grant program providing financial assistance to Illinois municipalities for activities related to redevelopment of brownfields sites. Brownfields sites are parcels of real property that have actual or perceived contamination and an active potential for redevelopment.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed rule contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

10) Statement of Statewide Policy Objectives: None of the proposed requirements would necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this Proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing by August 3, 1998 to:

Judith S. Dyer
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: All municipalities are eligible for brownfields redevelopment grants, including all small municipalities; thus, all small municipalities are potentially affected by this rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance: Grantees will be required to maintain documentation of eligible expenses and submit quarterly reports on expenses and activities. A final report detailing the success of the project will also be required.

C) Types of professional skills necessary for compliance: No professional skills are required for compliance under the grant program. Most municipalities will, however, enlist engineers and consultants to oversee grant projects.

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rule begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WASTE DISPOSAL
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 885

BROWNFIELDS REDEVELOPMENT GRANT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	Purpose
885.100	Definitions
885.105	Severability

SUBPART B: BROWNFIELDS REDEVELOPMENT GRANTS

Section	Scope and Availability of Grants
885.200	Grant Assistance Criteria
885.205	Applications for Brownfields Redevelopment Grants
885.210	Agency Action on Application
885.215	Grant Award Acceptance
885.220	Grant Agreement
885.225	Amendments to Grant Agreement
885.230	Cost Criteria
885.235	Grant Payment
885.240	Grantee Responsibilities
885.245	Evaluation of Performance
885.250	Requirements Applicable to Contracting and Subcontracting
885.255	Agency Cost Recovery
885.260	

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section	Agency Action for Noncompliance with Grant Conditions
885.300	Project Termination by Grantee
885.305	Stop-Work Orders
885.310	Covenant Against Contingent Fees
885.315	Recovery of Grant Funds
885.320	Indemnification
885.325	Statutory Requirements
885.330	

SUBPART D: ACCESS, AUDITING AND RECORDS

Section	Access
885.400	Audit and Records
885.405	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

AUTHORITY: Implementing and authorized by Section 58.13 of the Environmental Protection Act [415 ILCS 5/58.13].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 885.100 Purpose

The purpose of this Part is to provide municipalities in Illinois with financial assistance in the form of grants to be used for coordination of activities related to brownfields redevelopment.

Section 885.105 Definitions

Unless specified otherwise, all terms shall have the meanings set forth in the Illinois Environmental Protection Act. Additionally, for purposes of this Part, the following definitions apply:

"Act" means the Illinois Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means a municipality that applies for a brownfields redevelopment grant.

"Brownfields redevelopment grant" means a grant issued pursuant to Section 58.13 of the Act and Subpart B of this Part.

"Brownfields site" or "brownfields" means a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and an active potential for redevelopment. (Section 58.2 of the Act)

"Grant agreement" means the written grant agreement documents and amendments thereto signed by both the Agency and a grantee in which the terms and conditions governing the grant are stated and agreed to by both parties.

"Grantee" means a municipality that has been awarded a grant for brownfields redevelopment under Section 58.13 of the Act.

"Municipality" means an incorporated city, village, or town in this State. Municipality does not mean a township, town when that term is used as the equivalent of a township, incorporated town that has superseded a civil township, county, or school district, park district, sanitary district, or similar governmental district. (Section 58.2 of the Act)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

"State" means the State of Illinois.

Section 885.110 Severability

If any Section, subsection, sentence or clause of this Part shall be adjudged unconstitutional, void, invalid, or otherwise unlawful, such adjudication shall not affect the validity of this Part as a whole, or any Section, subsection, sentence, or clause thereof not adjudged unconstitutional, void, invalid, or otherwise unlawful.

SUBPART B: BROWNFIELDS REDEVELOPMENT GRANTS

Section 885.200 Scope and Availability of Grants

- a) Subject to the availability of funding and the limitations and requirements set forth in this Part, grant assistance is available to municipalities for coordination of activities related to brownfields redevelopment, including identification of brownfields sites, site investigation and determination of remediation objectives and related plans and reports, and development of remedial action plans. (Section 58.13(a)(1) of the Act)
- b) Grant assistance is not available for implementation of remedial action plans or remedial action completion reports. (Section 58.13(a)(1) of the Act)
- c) Grants shall be awarded on a competitive basis subject to availability of funding. (Section 58.13(a)(2) of the Act)
- d) Grant amounts shall not exceed 70% of the eligible project amount, with the remainder to be provided by the municipality as local matching funds.
- e) Grants shall be limited to a maximum of \$120,000 and no municipality shall receive more than one grant under this Part. (Section 58.13(a)(4) of the Act)

Section 885.205 Grant Assistance Criteria

- a) Criteria for awarding grants shall include, but shall not be limited to, the following:
 - 1) Problem statement and needs assessment;
 - 2) Community-based planning and involvement;
 - 3) Implementation planning; and
 - 4) Long-term benefits and sustainability. (Section 58.13(a)(2) of the Act)
- b) In awarding grants, the Agency may give weight to geographic location to enhance geographic distribution of grants across this State. (Section 58.13(a)(3) of the Act)

Section 885.210 Applications for Brownfields Redevelopment Grants

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- a) To be considered for a brownfields redevelopment grant, an applicant must file with the Agency a complete application, in accordance with the requirements of this Section and relevant statutes.
- b) Applicants for brownfields redevelopment grants must use grant application forms furnished by the Agency, or a similar format. Grant applications, including budget forms, may be obtained from and must be submitted to:

Illinois Environmental Protection Agency
Bureau of Land
Solid Waste Management Section
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

- c) A complete brownfields redevelopment grant application must include:
- 1) Background information on the applying municipality and proposed project, including:

- A) The negative effects on the local community of the brownfields site and the positive effects on the local community of funding and implementation of the proposed project;
 - B) The local government involvement and planned additional involvement in the proposed project;
 - C) If the brownfields site is located in an enterprise zone, as defined at Section 3(b) of the Illinois Enterprise Zone Act [20 ILCS 655/3(b)], a map that identifies the designated enterprise zone and the specific brownfields site location;
 - D) The anticipated long-term benefits of the project and the means by which the municipality will sustain the benefits; and
 - E) How the success of the project will be measured;
- 2) The project plan, including:
- A) A description of all components and phases of the proposed project;
 - B) A description of planned or proposed tasks to be performed by parties involved;
 - C) A schedule of the work plan by tasks, including specific activities and events;
 - D) A detailed explanation of all anticipated expenses;
 - E) Letter(s) of agreement or other documentation showing the applicant is authorized, by law or consent, to act on behalf of or in lieu of the owner or operator of the site;
 - F) Letter(s) of agreement or other documentation from the contractor or subcontractors involved in or responsible for components or phases of the proposed project; and
 - G) Map(s) indicating location(s) of the proposed project, areas affected by the proposed project and, if relevant to the project, enterprise zone;

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 3) Information on project team members, including:

- A) The name of the project manager and a description of his or her previous management experience and other pertinent experience and capabilities;
 - B) The names of other project team members and a description of their job titles, work assignments and experience;
 - C) Documentation showing resource commitment by the grantee adequate for the project manager to successfully organize, administer, and complete the project specified in the proposal, such as:
 - i) Evidence of the relevant experience of all project team members; and
 - ii) Proposed allocation of resources, both capital and labor, to the project;
 - D) The name, telephone number, fax number, and e-mail address, if any, of the project team member designated to serve as liaison with the Agency;
- 4) Information on any environmental consultant to be employed by the applicant, including:
- A) The previous project management experience and other pertinent experience and capabilities of the environmental consultant;
 - B) The names of key environmental consultant personnel and a description of their job titles, work assignments and experience;
 - C) A detailed description of the tasks the consultant is to perform in the proposed project; and
 - D) Evidence of relevant experience of all environmental consultant personnel involved in the project;
- 5) Any remedial action plans and remedial action completion reports; and
- 6) The grant amount requested and a budget, on a form prescribed by the Agency, or in a similar format, outlining the expenses to be incurred. All amounts must be rounded to the nearest dollar and all percentages must be carried to one decimal place. The budget must include costs of:
 - A) Personnel services;
 - B) Equipment;
 - C) All other direct costs; and
 - D) Contractor and subcontractors.

Section 885.215 Agency Action on Application

- a) Issuance of brownfields redevelopment grants is subject to availability of funding.
- b) The Agency shall take action on all pending complete brownfields redevelopment grant applications at the close of each of two grant application periods per year, the first ending January 1 and the

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- second ending July 1.
- c) If an applicant submits an incomplete application, the Agency shall so notify the applicant in writing, identifying the information that is lacking.
 - d) The Agency shall, within 90 days after the close of each grant application period, in writing, notify each applicant with a pending application:
 - 1) If funding is available for brownfields redevelopment grants, of that applicant's selection or rejection for a grant award; or
 - 2) If funding is not available, of the unavailability of grant assistance.
 - e) Municipalities cannot obtain grant assistance by default due to failure by the Agency to act within the timeframe set forth in subsection (d) of this Section.

Section 885.220 Grant Award Acceptance

Within 30 days after receipt of grant award selection notification, the grantee shall notify the Agency in writing of its acceptance. If the grantee fails to so notify the Agency, the grant award shall be null and void.

Section 885.225 Grant Agreement

- a) Upon receipt of written acceptance of a grant award, the Agency shall send to the grantee formal grant agreement documents, including:
 - 1) A grant agreement to be signed by the Agency and the grantee;
 - 2) A cover letter from the Agency, stating any errors identified by the Agency in the grant application;
 - 3) A copy of the grantee's complete application, including budget forms; and
 - 4) A form on which the grantee is to state the grantee's federal taxpayer identification number.
- b) The Agency shall not sign a grant agreement until the grantee has corrected any errors identified by the Agency in the grant application and has signed the grant agreement.
- c) The grant takes effect on the date that the Agency signs the grant agreement.
- d) Once signed by both the Agency and the grantee, the grant agreement, comprising the written grant agreement documents, and any amendments thereto, shall govern the grant.
- e) The Agency shall keep the original grant agreement documents and provide a copy to the grantee.
- f) The grant agreement may be amended in accordance with Section 885.230 of this Part.

Section 885.230 Amendments to Grant Agreement

- a) To implement a project change, the grantee must obtain a formal

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- amendment to the grant agreement. The grantee may request an amendment to the grant agreement by submitting an amended grant application to the Agency at any point during the grant term.
- b) The grant agreement may be amended only by the mutual consent of the parties set forth in writing as a formal grant agreement amendment, signed and dated by the Agency and the grantee.
 - c) The grantee may request amendments for project changes including, but not limited to:
 - 1) Increasing the amount of State funds needed to complete the project;
 - 2) Altering the scope of the grant, as agreed to at the time of the grant award, e.g., by changing methodologies or personnel to be used; or
 - 3) Extending any contractual or grant completion date for the project.
 - d) Within 90 days after receipt of an amended grant application, the Agency shall notify the grantee in writing of its approval or rejection of the requested amendment to the grant agreement.
 - e) The Agency shall not approve any amendment to the grant agreement in violation of the limitations on grants set forth in Section 885.200 of this Part.
 - f) The Agency shall approve an amendment to the grant agreement, to the extent that the Agency may approve the amendment consistent with Section 885.200 of this Part, if the grantee makes a showing that:
 - 1) The original project cost approval was based on estimated costs or contractor bids, where the actual costs or contractor bids are over or under the estimated costs;
 - 2) Amendments to State statutes have affected or will affect the project costs;
 - 3) A project element was inadvertently omitted; or
 - 4) An approved project element has been found unnecessary.
 - g) If the Agency approves a requested amendment to the grant agreement, the Agency shall send a formal amendment signature page and a copy of the amended grant application to the grantee. After the grantee signs and returns the signature page, the Agency shall date and sign the signature page and attach the amended grant application, the notification of Agency approval of the requested amendment and the signature page to the grant agreement documents.

Section 885.235 Cost Criteria

- a) The Agency shall approve for reimbursement to the grantee, under the terms set forth in Section 885.240 of this Part, only costs meeting the following criteria:
 - 1) Costs within the scope of the redevelopment project for which the grant was awarded;
 - 2) Costs that are reasonable and necessary, including, but not limited to:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- A) Agency oversight costs of participating in the Site Remediation Program of Title XVII of the Act;
 - B) Environmental consultant oversight services;
 - C) Remedial investigation and design;
 - D) Development and implementation of activities necessary to establish remediation objectives;
 - E) Laboratory services necessary to determine site characterization and to establish cleanup objectives;
 - F) Installation and operation of groundwater investigation and groundwater monitoring wells;
 - G) Development and implementation of a soil sampling plan;
 - H) Development of a groundwater corrective action system;
 - I) Development of a soil corrective action plan;
 - J) Costs associated with seeking reimbursement from the brownfields redevelopment grant program, including, but not limited to, completion of documentation for partial or final payment; and
 - K) Purchase costs for non-expendable materials, supplies, equipment or tools purchased and used for the brownfields project;
- 3) Costs in amounts up to, but not exceeding, the total amount of the grant award;
 - 4) Costs incurred on or after the date the grant agreement is executed;
 - 5) Costs incurred without knowing violation of any State or federal law or regulation; and
 - 6) Costs incurred under a contract or subcontract in conformance with Section 885.255 of this Part.
- b) Costs the Agency shall not approve for reimbursement because they are not necessary for completion of the work required under the grant agreement, include, but are not limited to:
 - 1) Costs or losses resulting from business interruption at the specific site;
 - 2) Costs for corrective action activities and associated material or services;
 - 3) Costs associated with improperly installed sampling or monitoring wells;
 - 4) Costs associated with improperly collected, transported or analyzed laboratory samples;
 - 5) Interest or finance costs charged as direct costs; and
 - 6) Insurance costs charged as direct costs.

Section 885.240 Grant Payment

- a) The Agency shall use reimbursements to the grantee as the method of payment of grant funds.
- b) To obtain reimbursement from the brownfields redevelopment grant program, the grantee shall submit a request for reimbursement in

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- c) Grant funds must be expended within three years after the effective date of the grant award.
- d) The grantee may submit an initial request for reimbursement at any time after the costs for which reimbursement is sought have been incurred. Subsequent requests for reimbursement must be spaced at least 90 days apart, except that the grantee may submit a final reimbursement request within 90 days after the most recent prior request.
- e) The Agency shall use the criteria set forth in Section 885.235 of this Part in determining whether to approve reimbursement to the grantee of costs included in each request for reimbursement.
- f) If grant funds are available, the Agency shall send a voucher for payment of an approved reimbursement request to the Comptroller's office within 90 days after receipt of the request.
- g) If grant funds are unavailable, the Agency shall so notify the grantee, within 90 days after receipt of a request for reimbursement, and shall send vouchers for payment of approved reimbursement requests to the Comptroller's office when funds become available.

Section 885.245 Grantee Responsibilities

- a) The grantee must submit quarterly progress reports to the Agency during the term of the grant. Each progress report should be a short narrative of the activities performed and the dates they were performed during that quarter.
- b) The grantee must submit a detailed final report to the Agency at the end of the grant term. In the final report, the grantee must describe how the tasks described in the project plan submitted by the grantee have been fulfilled.
- c) If the grantee fails to timely submit quarterly progress reports or a final report, the Agency may impose any of the sanctions set forth in Subpart C of this Part.

Section 885.250 Evaluation of Performance

The Agency shall oversee each grantee's performance under the brownfields redevelopment grant program in the following manner:

- a) The Agency shall evaluate grantee performance and progress toward completing the approved project plan.
- b) If the Agency's evaluation reveals that the grantee is not in compliance with one or more of the terms, conditions or limitations of the grant agreement, the Agency shall attempt to resolve the situation through negotiation. The Agency and the grantee shall put any settlement reached in writing as a formal amendment to the grant agreement in accordance with Section 885.230 of this Part.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- c) If resolution is not achieved, the Agency may impose any of the sanctions set forth in Subpart C of this Part.

Section 885.255 Requirements Applicable to Contracting and Subcontracting

- a) The following conditions and limitations shall apply to all contracts and subcontracts entered into by the grantee:
- 1) The grantee must use a freely and openly competitive bidding process in contracting and must require the same of any contractor in subcontracting;
 - 2) Only fair and reasonable profits may be earned by contractors and subcontractors in contracts and subcontracts under Agency grants. Factors to be considered in determining a fair and reasonable profit shall include project-related: material acquisition costs; labor costs; management costs; contract risks; capital investments; degree of independent development; and cost control and record keeping efforts. The determination of a fair and reasonable profit shall not be based upon the application of a predetermined percentage factor;
 - 3) The grantee, rather than the Agency, is responsible for the administration and successful accomplishment of the project for which the Agency grant is awarded. The grantee, rather than the Agency, is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of contracts and subcontracts entered into under the grant. This responsibility includes, but is not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protest of award, claims, disputes and other procurement matters;
 - 4) Any contract or subcontract must include a provision allowing project-related access, in accordance with Section 885.400 of this Part;
 - 5) Any contract or subcontract must provide that the Agency or any authorized representative shall have access to any books, documents, papers, and records, including computer-generated documents, of the contractor or subcontractor that are pertinent to the project, for the purpose of making an audit, examination, excerpts, and transcriptions thereof; and
 - 6) Neither the Agency nor the State shall be a party to any contract or subcontract, solicitation, or request for proposals.
- b) No contract or subcontract shall be awarded to any person or organization that does not:
- 1) Have adequate financial resources, experience, organization, technical qualification, and facilities for performance of the subagreement, or a firm commitment or arrangement to obtain such;
 - 2) Have staffing sufficient to comply with the completion schedule for the project;
 - 3) Have a demonstrated record of integrity, good judgment, and

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- performance, including any prior performance under grants or contracts with the federal or any state government;
- 4) Have an established financial management system and audit procedure;
 - 5) Maintain a property management system that provides procedures for the acquisition, maintenance, safeguarding and disposition of all project-related property; and
 - 6) Conform to the civil rights law, equal employment opportunity law, and labor law requirements, as well as all other statutes of the State.

Section 885.260 Agency Cost Recovery

- a) If the Agency undertakes a response action at the site of an approved project, the Agency will not seek recovery of its costs under Section 22.2 or Title XVII of the Act from a grantee as an owner or operator if the grantee's status as an owner or operator is based solely on the grantee's:
- 1) execution of a grant agreement; or
 - 2) implementation of an approved project.
- b) *The exclusion provided under subsection (a) shall not apply to any grantee who has caused or contributed to the release or threatened release of a hazardous substance or pesticide from the facility, and such grantee shall be subject to the provisions of the Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under Sections 22.2(f) and 58.9 of the Act. (Section 22.2(h)(2)(H) of the Act)*

SUBPART C: NONCOMPLIANCE WITH GRANT CONDITIONS

Section 885.300 Agency Action for Noncompliance with Grant Conditions

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a brownfields redevelopment grant or other violation of this Part, the Agency may:
- 1) Revoke the grant and recover all grant funds disbursed;
 - 2) Terminate the grant;
 - 3) Suspend all project work; or
 - 4) Take such other action as the Agency is authorized to take.
- b) No action shall be taken under this Section without prior oral or written consultation with the grantee.
- c) In determining whether to take action and which action to take under this Section, the Agency shall consider factors including, but not limited to:
- 1) the severity of the violation(s);
 - 2) the number of violations by the grantee;
 - 3) whether the violation is a continuing one;

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 4) whether the grantee can remedy the violation; and
- 5) whether the grantee and any contractor or subcontractor remain capable of complying with the approved work project.
- d) Recovery actions under this Section shall be taken pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705].

Section 885.305 Project Termination by Grantee

- a) The grantee may request the termination of an incomplete project for which a grant has been awarded only for good cause.
- b) The Agency shall review the grantee's request to terminate a project and make a finding, within 90 days after the date of receipt of the request to terminate, as to good cause. Good cause shall include, but not be limited to:
 - 1) A change in grant program requirements or priorities;
 - 2) Lack of adequate funding; or
 - 3) Advancements in technology.
- c) If the Agency finds that the grantee's request to terminate the project is for good cause, it shall terminate the grant, effective upon the date the request to terminate the project was received by the Agency. The grantee may keep all grant funds previously paid.
- d) If the Agency finds that the grantee's request to terminate the project is without good cause, the grant shall be revoked and the grantee shall return to the State all grant funds previously paid. The grantee shall return such funds within 30 days after the date the grant is revoked by sending a certified check to the Brownfields Redevelopment Fund.

Section 885.310 Stop-Work Orders

- a) The Agency may, for any violation of this Part, issue a written stop-work order, requiring the grantee to stop all or any part of the project work, effective for a period of not more than 30 days from the date of the order, or for any further period to which the parties may agree in writing. The Agency shall include in any stop-work order a list of the project activities to which the order applies.
- b) Upon receipt of a stop-work order, the grantee must comply with its terms and stop the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- c) Within 30 days after the date of the stop-work order, or within any extension of that period to which the parties agree in writing, the Agency shall:
 - 1) Upon resolution of the violation leading to the stop-work order, cancel the stop-work order; or
 - 2) Terminate the portion of the grant covered by the stop-work order, as provided in Section 885.300.
- d) If a stop-work order issued under this Section is canceled, or the effective period of the order or any written extension thereof

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

expires, the grantee shall resume work. The grantee may request an amendment to the grant agreement, in accordance with Section 885.230 of this Part, to obtain an adjustment in the grant amount accounting for the work stoppage.

- e) The grantee may not obtain reimbursement for costs associated with a stop-work order unless the Agency authorizes reimbursement in writing.

Section 885.315 Covenant Against Contingent Fees

- a) The grantee must warrant, as part of the grant agreement, that no person has been employed or retained to solicit or secure a grant under this Part upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.
- b) For breach or violation of this warranty, the Agency shall have the right to revoke the grant without liability or, in its discretion, to deduct from the grant award, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

Section 885.320 Recovery of Grant Funds

If the Agency determines that any grant funds are being misspent or improperly held by the grantee, the Agency or the Attorney General shall have the authority to recover those funds and take any action authorized by the Illinois Grant Funds Recovery Act [30 ILCS 705].

Section 885.325 Indemnification

The grantee, rather than the Agency, shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency, or third persons, and any injury to or death of any persons (including employees of the grantee) caused by or arising out of, or occurring in connection with, the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State and the Agency from all claims for any such loss, damage, injury, or death. However, a grantee's execution of a grant agreement, or implementation of an approved project, does not, in itself, render the grantee an owner or operator for purposes of 415 ILCS 5/22.2(h)(2), or under regulations promulgated pursuant to 415 ILCS 55/8. The grantee shall require any contractor or subcontractor engaged by the grantee to agree in writing to look solely to the grantee for performance of its contract or subcontract with the grantee and for satisfaction of any and all claims arising thereunder.

Section 885.330 Statutory Requirements

The grantee is solely responsible for assuring compliance with all statutory requirements, including, but not limited to, the Local Government Professional Services Selection Act [50 ILCS 510] and the Construction Contract Indemnification for Negligence Act [740 ILCS 35].

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

SUBPART D: ACCESS, AUDITING AND RECORDS

Section 885.400 Access

- a) The Agency or any authorized representative shall have access to the premises where any portion of the project for which the grant was awarded is being performed, both during normal business hours and at any other time project-related work is being performed.
- b) Subsequent to the end of the grant term, the Agency or any authorized representative shall have access to the project records, as defined in Section 885.405(a) of this Part, to the full extent of the grantee's right to access, during normal business hours.
- c) If the Agency or any authorized representative is denied access in violation of this Section, the Agency shall provide notice in writing to the grantee that failure to provide access within 10 days will be cause for:
 - 1) Termination of the grant pursuant to Subpart C of this Part;
 - 2) Refund to the State of any unexpended grant funds in the possession of the grantee; and
 - 3) Refund of any grant funds previously expended by the grantee, contractor, or subcontractor found in noncompliance with this Section.

Section 885.405 Audit and Records

- a) The grantee shall maintain books, records, documents, reports and other evidentiary material, using accounting procedures and practices that conform to generally accepted accounting principles, to account properly for:
 - 1) The receipt and disposition by the grantee of all financial assistance received for the project, including both State assistance and the local share; and
 - 2) The costs charged to the project for which the grant has been awarded, including all direct and indirect costs of whatever nature incurred in performance of the project.
- b) The grantee's facilities, or such facilities as may be engaged in the performance of the project for which the grant has been awarded, and the grantee's records shall be subject to inspection and audit by the Agency or any authorized representative at the times specified in Section 885.400 of this Part.
- c) The grantee shall preserve records and make records available to the Agency or any authorized representative:
 - 1) Until expiration of 3 years from the date of final payment under this grant;
 - 2) For such longer period, if any, required by applicable statute or regulation;
 - 3) For records relating to grant work that has been terminated, for a period of 3 years from the date of any resulting final

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 4) termination settlement; or
- For records relating to disputes and/or appeals, litigation or the settlement of claims arising out of the performance of the project for which the grant was awarded, or costs and expenses of the project to which exception has been taken by the Agency or any of its duly authorized representatives, until disposal of such appeals, litigation, claims, or exceptions.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Participation in the Air Pollution Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 252
- 3) Section Numbers:
252.102 Proposed Action:
252.201 Amend
252.206 Amend
- 4) Statutory Authority: The Environmental Protection Act, Sections 4, 9.1(d), 39(f) and 39.5(19) [415 ILCS 5/4, 9.1(d), 39(f) and 39.5(19)].

5) A Complete Description of the Subjects and Issues Involved: The Agency is proposing amendments to 35 Ill. Adm. Code 252 to require public notice of case-by-case maximum achievable control technology ("MACT") determinations made pursuant to Section 112(g) and (j) of the Clean Air Act, as amended in 1990 ("CAA"), for new or modified major sources of hazardous air pollutants ("HAPs"). Pursuant to regulations adopted by the United States Environmental Protection Agency ("USEPA") for the implementation of Section 112(g), the Illinois EPA is required to implement a Section 112(g) program. The Illinois EPA will use its existing preconstruction permitting program and follow USEPA's guidance and regulations for Section 112(g) to implement its program. A public hearing to describe the Section 112(g) program is being held at the same time, July 21, 1998, as the public hearing scheduled on the Agency's proposed amendments to 35 Ill. Adm. Code 252. The Agency's Section 112(g) program will be in effect on August 14, 1998; however, the provisions contained in this rulemaking will not be in effect until this rulemaking is adopted.

In addition, the Agency is proposing another amendment to its public participation rules in 35 Ill. Adm. Code 252. It is proposing to shorten the public comment period from 45 days to 30 days. This amendment is appropriate, as the 30-day time period is consistent with USEPA's requirement for public comment for preconstruction permits in the prevention of significant deterioration program ("PSD"). It will also help to streamline the permitting process.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments do not

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: An Illinois EPA hearing on the Agency's Section 112(g) program and proposed regulations will be held on July 21, 1998, at 10 am at the Illinois EPA Main Office, Mississippi Room, 1021 North Grand Avenue East, Springfield, Illinois.

Questions or written comments concerning this rulemaking should reference EPA #263-98 and be sent to:

John Williams
Agency Hearing Officer
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

and

Rachel L. Doctors
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276

Written comments must be received by the Illinois EPA by August 5, 1998, for inclusion in the hearing record.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: No additional requirements
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 252

PUBLIC PARTICIPATION IN THE

AIR POLLUTION CONTROL PERMIT PROGRAM

SUBPART A: INTRODUCTION

Section	Purpose
252.101	Application
252.102	Application for a Prevention of Significant Deterioration Permit
252.103	Definitions
252.104	Consolidation
252.105	

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section	Notice and Opportunity to Comment
252.201	Draft Permit
252.202	Fact Sheet and Statement of Basis
252.203	Availability of Documents
252.204	Opportunity for Public Hearing
252.205	Procedures for Public Hearings
252.206	

SUBPART C: USEPA REVIEW AND OBJECTION PROCEDURES

Section	USEPA Review and Objection
252.301	

SUBPART D: AGENCY ACTION

Section	Final Permit Action
252.401	

AUTHORITY: Implementing and authorized by Sections 4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d)].

SOURCE: Adopted at 4 Ill. Reg. 10, p. 246, effective February 22, 1980; old Part repealed and new Part adopted at 8 Ill. Reg. 8197, effective June 1, 1984; amended at 17 Ill. Reg. 9684, effective June 10, 1993; amended at 22 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Section 252.102 Applicability

- a) This Part applies ~~These rules~~ apply to permit applications filed with the Agency for:
- 1) Permits pursuant to Major Stationary Sources Construction and Modification, the New Source Review (NSR) rules, 35 Ill. Adm. Code 203, for major new sources and major modifications;
 - 2) Permits pursuant to the federal rules for Prevention of Significant Deterioration of Air Quality (PSD), 40 CFR 52.21, for construction of major new sources and major modifications;
 - 3) Permits for the construction of sources or modifications which would constitute major new sources or major modifications, subject to public notice pursuant to subsection (a)(1) or (2) above, if they were not accompanied by contemporaneous emissions decreases or if federally enforceable significant restrictions were not placed on the source or modification;
 - 4) Permits for the use of Alternative Control Strategies (ACS) pursuant to 35 Ill. Adm. Code 202;
 - 5) Permits to operate sources pursuant to Section 39.5 of the Environmental Protection Act (Act) (the Clean Air Act Permit Program (CAAPP)) and significant modifications of any permit issued thereunder;
 - 6) Permits to operate sources which contain federally enforceable conditions including permits which exclude sources from the applicability of the permitting requirements described in subsection subsections (a)(1), (a)(2), or (a)(5) above;
 - 7) Permits for the construction, reconstruction, or modification of major sources of hazardous air pollutants (HAPs) that require a determination of case-by-case Maximum Achievable Control Technology (MACT), pursuant to Sections 9.1(d) and 39(f) of the Act, and Section 112(g) and (j) of the Clean Air Act (CAA) (42 U.S.C. 7412(g) and (j));
 - 87) Permits for the construction of emission units of public interest at a source, the criteria for which are outlined in subsection (b) below; and
 - 98) Revisions to permits described in subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) and (a)(7) above as specified by applicable regulations. This Part shall apply to all revisions which: revise any standard established on a case-by-case basis; alter conditions imposed to meet requirements for emissions offsets; or relax testing, monitoring, recordkeeping, or reporting requirements.
- b) The Director shall determine whether an emission unit is of public interest. In making the decision, the Director shall consider:
- 1) The type of permit for which the application is made;
 - 2) The nature and amount of pollutants which will be emitted by the source;
 - 3) Possible effects of the emissions on health and the environment;

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 4) The location of the source;
- 5) The interest in the source exhibited by the public, based on comments and inquiries received by the Agency;
- 6) Other factors which are distinctive to the source; and
- 7) The proposed action by the Agency.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section 252.201 Notice and Opportunity to Comment

- a) The Agency shall issue a notice for the issuance of any permit described in Section 252.102 of this Part and renewal of any operating permit described in Section 252.102 of this Part, and permit actions described in Section 252.103 of this Part.
- b) The notice shall be sent to:
 - 1) The public, at least one time, by display advertisement in a newspaper of general circulation in the area where the source is located;
 - 2) Local government air pollution control offices within Illinois that are in the area affected by the source;
 - 3) The chief executives of the municipality and county in which the source is to be located, including the mayor or president, clerk, county board chairman, county clerk, and state's attorney;
 - 4) Members of the General Assembly from the legislative district in which the source is located;
 - 5) Any state whose air quality may be affected and which is contiguous to Illinois or which is within 50 miles of the source;
 - 6) Other officials and agencies identified in 40 CFR 51.24(g)(iv) (1983), for PSD sources only;
 - 7) The permit applicant; and
 - 8) Persons on the public participation mailing list for the air pollution control permit program.
- c) The notice shall include:
 - 1) The name and address of the applicant and the source;
 - 2) The location of the source if different from the applicant's address;
 - 3) The activity or activities involved in the permit action;
 - 4) For a proposed significant modification, a description of the change in the amount or character of the emissions which may result from the modification;
 - 5) The preliminary decision of the Agency to grant the permit;
 - 6) For the issuance of a PSD permit, the degree of ambient air increment consumed by the project;
 - 7) For a case-by-case MACT determination pursuant to Section 112(g) or (j) of the CAA, a description of the emission limitation or

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

work practice standard in the draft permit that constitutes MACT; 87) The location of the documents available for public review; 98) A request for written comments on the Agency's draft proposed permit;

109) The date by which comments must be postmarked; 11) Instructions on how to request a public hearing if a decision to hold a hearing has not already been made pursuant to Section 252.205(a) or (b); and

12) The name, address, and telephone number of the Agency contact person from whom the public may obtain additional information. (Agency Note: Material properly claimed as trade secret or confidential pursuant to Sections 7 and 7.1 of the Act and 2 Ill. Adm. Code Part 1827 will not be subject to public disclosure under this Part. An applicant claiming a trade secret shall provide, in addition to the complete application, a copy of the application for public notice in which the material claimed as trade secret has been deleted.)

d) The notice to the permit applicant shall also include the draft permit and fact sheet or statement of basis required by Section 252.203 of this Part.

e) The notice shall provide for a 30-day 45-day public comment period. The Agency may extend the comment period on written request if any applicable statutory period for the Agency decision, as prescribed in Section 39 of the Act, allows for an extension.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 252.206 Procedures for Public Hearings

- a) Except as provided in subsection (b) below, hearings shall be conducted in accordance with the Agency's "Procedures for Permit and Closure Plan Hearings" (35 Ill. Adm. Code 166: Subpart A, Informational Permit and Closure Plan Hearings).
- b) The following types of hearings shall be conducted in accordance with the Agency's "Procedures for Permit and Closure Plan Hearings" (35 Ill. Adm. Code 166: Subpart B, Contested Case Permit Hearings):
 - 1) Hearings requested by the applicant pursuant to Section 39(f)(3) of the Act on a proposed action which includes the Agency's determination with respect to BACT or LAER or case-by-case MACT; hearings requested by the ACS permit applicant pursuant to Section 39.1(d) of the Act.
 - 2) Notwithstanding subsection (b) above, persons requesting hearings subject to the Contested Case Permit Hearings (35 Ill. Adm. Code 166: Subpart B) may waive their rights to the procedures of the Contested Case Permit Hearings by notifying the hearing officer to that effect. Where persons waive their rights to Contested Case Permit Hearings, such hearings shall be held in accordance with the

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

procedures of Informational Permit and Closure Plan Hearings (35 Ill. Adm. Code 166: Subpart A).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Joint Rules of the Illinois Public Universities: Procurement and Bidding

2) Code Citation: 44 Ill. Adm. Code 525

3) Section Numbers:

Proposed Action:

525.10 Repealed
525.20 Repealed
525.50 Repealed
525.60 Repealed
525.70 Repealed
525.100 Repealed
525.110 Repealed
525.200 Repealed
525.300 Repealed
525.320 Repealed
525.330 Repealed
525.340 Repealed
525.350 Repealed
525.400 Repealed
525.410 Repealed
525.500 Repealed
525.510 Repealed
525.520 Repealed
525.530 Repealed
525.540 Repealed
525.600 Repealed
525.610 Repealed
525.620 Repealed
525.630 Repealed
525.640 Repealed
525.650 Repealed
525.660 Repealed
525.670 Repealed
525.700 Repealed
525.710 Repealed

4) Statutory Authority: Public Act 90-572 repeals the Illinois Purchasing Act [30 ILCS 505], the main law under which these rules were promulgated. Public Act 90-572 requires rulemaking to implement the new Illinois Procurement Code [30 ILCS 500].

5) A Complete Description of the Subjects and Issues Involved: Repeal of Joint Rules of the Illinois Public Universities: Procurement and Bidding [44 Ill. Adm. Code 525].

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking neither creates nor expands any State mandate on units of local government, school districts or community college districts.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of this publication to:

Mr. Robert C. Baker
University of Illinois at Urbana-Champaign
506 S. Wright St., Rm. 207
Urbana, IL 61801
217/333-3582
Fax: 217/244-7879
e-mail: rbaker@uiuc.edu

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: All would be affected in circumstances where they would seek to do business with the State universities. Revised rules will replace the repealed rules.

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: The law was not signed until February 6, 1998.

The full text of the Proposed Repealer begins on the next page:

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER II: BOARDS OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

PART 525

JOINT RULES OF THE ILLINOIS PUBLIC UNIVERSITIES:
PROCUREMENT AND BIDDING (REPEALED)

SUBPART A: AUTHORITY AND DEFINITIONS

Section
525.5
525.10
525.20

Preamble (Repealed)
Authority
Definitions

SUBPART B: METHODS OF PROCUREMENT

Section
525.50
525.60
525.70

General
Procedures for Source Selection
How Competition is Solicited by the University

SUBPART C: ELIGIBILITY TO BID

Section
525.100
525.110
525.200

Bidders List for Contracts
Removal from Bidders List or Suspension
How Bids are Solicited by the University (Renumbered)

SUBPART D: SUBMISSION OF BIDS

Section
525.300
525.310
525.320
525.330
525.340
525.350

University Sealed Bid Form
Types of Bids (Repealed)
Contents of Bids
How to Submit Bids
Bid Security
Submission of Samples

SUBPART E: HANDLING OF BIDS

Section
525.400
525.410

Handling of Sealed Bids
Handling of Open Bids and Sealed Proposals

SUBPART F: AWARDING OF CONTRACTS

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

Section
525.500 Standards for Awarding Contracts
525.510 Rejection of Bids
525.520 Binding Contract with the University
525.530 Supplementary Purchases
525.540 Negotiation of Award

SUBPART G: PERFORMANCE BY SUCCESSFUL BIDDER

Section
525.600 Performance and Payment Bond
525.610 Insurance Requirements
525.620 Deliveries Under the Contract
525.630 Inspection
525.640 Assignments by Successful Bidder
525.650 Cancellation of Contract by the University and Compensation for Damages
525.660 Billing Procedures
525.670 Construction Contracts

SUBPART H: OTHER PROCEDURES

Section
525.700 Competitive Selection Procedures Not Required
525.710 Procedures for Appeal
525.720 Solicitations for Sale to the University (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Purchasing Act [30 ILCS 505].

SOURCE: Filed June 10, 1975; amended at 7 Ill. Reg. 7100, effective June 1, 1983; codified at 8 Ill. Reg. 19827; amended at 13 Ill. Reg. 16510, effective October 10, 1989; amended at 21 Ill. Reg. 9413, effective July 15, 1997; repealed at 22 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY AND DEFINITIONS

Section 525.5 Preamble (Repealed)

(Source: Repealed at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.10 Authority

This Part is promulgated by the following governing Boards of the State of Illinois: the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Western Illinois University, the

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

Board of Trustees of Governors State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Northern Illinois University, and the Board of Trustees of Illinois State University (hereinafter sometimes referred to individually as "University" and collectively as "State Universities") in accordance with the provisions of the Illinois Purchasing Act (the Act) [30 ILCS 505]. This Part may be amended in accordance with the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.20 Definitions

Bid. "Bid" shall mean an offer to contract with the University.

Bid information. "Bid information" shall be the material or requirements supplied to prospective bidders by a University to enable them to bid on proposed University contracts.

Bidder. "Bidder" means any person who submits a bid for a contract with the University.

Cash discount. "Cash discount" is a discount or an allowance deductible from the total amount of the invoice for payment within a specified number of days.

Contractor. "Contractor" shall mean a bidder whose bid has been accepted by the University.

F.O.B. "F.O.B." shall mean free on board.

Person. "Person" means and includes any individual, firm, partnership, corporation, association or other entity.

Purchasing official. "Purchasing official" means the person or persons to whom the governing Board of the respective University has delegated the authority to take the action specified.

Quantity discount. "Quantity discount" is a discount allowed by the bidder for specified quantities of the item.

Trade discount. "Trade discount" is a special discount allowed by the bidder to special classes of purchases.

University. "University" shall mean a governing Board identified in Section 525.10 of this Part, or its authorized representative, which issues bid information relating to a particular transaction.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

SUBPART B: METHODS OF PROCUREMENT

Section 525.50 General

The principles of competitive and economical procurement practice shall apply to all purchases and contracts by or for the State Universities in Illinois, except as otherwise provided by law or this Part.

- a) A competitive procurement is one in which more than one potential vendor is contacted, given information describing the University's needs and any conditions that must be observed, and asked to respond with a priced quotation to meet those needs and conditions. Such information will be evaluated with the intent of selecting the vendor whose goods or services best meet the needs of the University, price and other factors being considered.
- b) Except for those procurements identified in Section 525.700 of this Part which are exempt from the use of competitive procurement procedures, awards are to be made to the lowest responsible bidder meeting needs and conditions.
- c) Any of the procedures described in Section 525.60 of this Part, except negotiation with one vendor, are examples of competitive procedures and may be used to conduct competitive procurements.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.60 Procedures for Source Selection

- a) Sealed Bids: Sealed bids must be in writing and will be opened publicly on a designated day and hour, except as otherwise provided herein.
- b) Open Bids: Open bids shall be made by the bidder in the manner specified in the bid information.
- c) Sealed Proposals: This method may be used when specifications do not provide a basis for an award based solely on price or when features are difficult to compare directly. Sealed proposals will be submitted in writing in the manner specified in the bid information and will be evaluated on the basis of specific criteria considering price and other factors.
- d) Negotiation: When a competitive procedure is not required by the Act or this Part and when it is determined that a negotiated procurement is more practicable or will result in advantage to the University, negotiations may be conducted with one or more vendors. (For example, a negotiated procurement is considered to be practicable when the purchasing official determines based upon knowledge of market conditions, that the time and expense required to conduct such negotiations will be economically advantageous in terms of the expenditure of time and University resources.) Award will be made to

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

the vendor best meeting the University's needs.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.70 How Competition is Solicited by the University

- a) Newspaper advertisements. The University shall advertise for sealed bids and sealed proposals in the official newspaper of the State of Illinois when purchasing services, commodities or equipment using competitive selection procedures. The advertisement will give full details as to where additional information can be obtained and the time and place of the bid opening.
- b) Bid information.
 - 1) When the University intends to purchase services, commodities or equipment, it will send out bid information to those persons who are on the appropriate bidders list and to any other persons identified to the purchasing official as a prospective bidder, except in the following cases.
 - A) When the bidder does not sell the particular service, commodity or equipment.
 - B) When competitive selection procedures are not required by the Act.
 - 2) The bid information will include:
 - A) Specifications or descriptions.
 - B) Quantity.
 - C) Any installation, maintenance or repair service to be provided.
 - D) Delivery requirements or date for completion of services.
 - E) Any other terms or conditions which the University may require bidders to meet.
 - 3) Bid information normally will be mailed, except that, in unusual circumstances, it may be communicated by telephone or in electronically transmitted form. For example, unusual circumstances are those that would prevent a bidder from hand carrying or mailing the original copy of the bid information in time for it to be received prior to the bid opening deadline.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

SUBPART C: ELIGIBILITY TO BID

Section 525.100 Bidders List for Contracts

- a) How to apply to be placed on bidders list. Bidders lists are maintained for various service, commodity and equipment classifications. To be included on a bidders list, a person should submit a request to the purchasing official indicating the types of services, commodities or equipment for which bid information is

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEAL

requested.

- b) Application to be filled out.
- 1) An applicant will be required to provide information concerning its form of organization and bank references, and may be required to provide sources of supply or other information to determine its responsibility and capability. An applicant may be required to furnish this information depending upon the type of purchase and amount of information already available as to the capabilities and responsibility of the firm in question. The current Illinois Department of Human Rights (DHR) identification number is to be provided, as well as the Taxpayers Identification Number (TIN), also known as the Federal Employer Identification Number (FEIN), or Social Security Number.
 - 2) The applicant must disclose in its application the name of each individual having a beneficial interest of more than 7 1/2% in the bidding enterprise and each individual who, together with his spouse or minor children, has a beneficial interest of more than 15% in the bidding enterprise and, if the applicant is a corporation, the names of all its officers and directors. The applicant shall notify the University of any changes in its ownership or officers at the time the change occurs.
 - 3) Applicants who are minorities, females, or persons with disabilities are encouraged to identify their status for certification purposes under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.
 - c) Addition of name to list. Upon submission to the purchasing official of a completed application, the applicant's name may be placed on the active bidders list for the service, commodity or equipment classification requested. The purchasing official will give specific reasons for any applications which are not accepted. Bid information will be sent to those persons appearing on the bidders list. The sending of such information does not constitute a final or conclusive determination as to the responsibility and capability of such bidder. The bidder's qualifications and responsibility will be subject to continuous review.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.110 Removal from Bidders List or Suspension

- a) Removal from bidders list or suspension. The University may remove any bidder from a bidders list or suspend the bidder from bidding for a specified period of time, not to exceed one year. The bidder will be given due notice of such removal or suspension action and the reasons therefore. Appeal procedures are specified in Section 525.710 of this Part.
- b) Cause for removal or suspension. The following, without excluding others of like or different nature, shall be sufficient grounds for

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEAL

such removal or suspension:

- 1) Delivery of commodities, equipment or services which do not comply with the specifications.
- 2) Failure to make delivery or to complete a construction project in the time specified in the contract or purchase order.
- 3) Failure to keep offer firm for length of time specified.
- 4) Failure to provide any required performance or payment bonds.
- 5) Collusion with other bidders or prospective bidders.
- 6) Bankruptcy or other evidence of lack of responsibility.
- 7) Failure to perform in accordance with an award.
- 8) Failure to make equitable adjustments or replacement of damaged goods.
- 9) Failure to honor warranties or guarantees.
- 10) Giving false or misleading information.
- 11) Any action constituting violation of State of Illinois or Federal laws or regulations, including noncompliance with the Illinois Human Rights Act [775 ILCS 5] or with Department of Human Rights rules for public contracts (44 Ill. Adm Code 750).
- 12) Two consecutive failures to respond (either with a bid or an indication of "no bid") to bid information.
- 13) Determination of insufficient financial capability to perform a contract or any other facts causing substantial doubt as to whether the bidder can be relied upon to fulfill obligations under any contract awarded. For example, one standard is the ability of the vendor to provide specified financial documents such as insurance, performance bond, and payment bond all in the full amount of the contract.
- 14) Any other violation of this Part.
- c) Reinstatement. After receipt of a notice of removal or suspension, a bidder may submit in writing an explanation of the circumstances which were the cause of the removal or suspension and prove that such circumstances have been corrected. On the basis of such proof, the University may modify or rescind the removal or suspension.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.200 How Bids are Solicited by the University (Renumbered)

(Source: Renumbered to Section 525.70 at 13 Ill. Reg. 16510, effective October 10, 1989)

SUBPART D: SUBMISSION OF BIDS

Section 525.300 University Sealed Bid Form

- a) Uniformity. When a sealed bid is required by the bid information to provide uniformity and to facilitate comparison of bids by the University, the bidders and interested members of the public, only

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

bids submitted on the sealed bid form specified by the University will be acceptable. The University reserves the right to waive minor variances or irregularities.

- b) Use of typewriter or ink. Every sealed bid should be typewritten or written in ink. The bid must be signed by the person submitting the bid or the person's duly authorized agent. The signature should be in ink and the name and title of each person signing the bid should be typed or printed below the signature.

- c) Bids by telephone or in electronically transmitted form. The University may agree to receive bids by telephone or in electronically transmitted form. Written confirmation of the sealed bid shall be mailed or delivered by the bidder on the same day.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.310 Types of Bids (Repealed)

(Source: Repealed at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.320 Contents of Bids

- a) Completeness of Bids. The bid will include all matters required by the bid information. All appropriate blanks in the bid form must be completed by the bidder.

- b) Reference specifications. Any specifications or standards adopted by business, industry, not-for-profit organization, or governmental unit may be incorporated by reference.

- c) Brand name or equal. Specifications may refer to one or more brand name products followed by the words "or equal." "Or equal" submissions will not be rejected because of minor differences in design, construction, or features which do not affect the suitability of the product for its intended use. The burden of proof that the product is equal for the intended use is on the bidder.

- d) Brand name only. Brand name alone may be specified in order to fill medical prescription needs or to stock University retail-type operations.

- e) Items must be new and current. Unless otherwise specified, the items offered must all be new and the latest model, crop or manufacture.

- f) Bids on alternate items. When any bidder offers an alternate item for consideration, the bidder will give complete specifications, name the brand and demonstrate that the alternate item is equal. The University reserves the right to reject any alternate item which it determines is not equally suitable for the specified purpose. The burden of proof is on the bidder.

- g) Unit and total prices. The price for the units specified in the bid shall be clearly shown for each individual item. Only one unit price shall be quoted for each item. The total price for the quantity

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

requested must also be shown.

- h) Period of firm bid. Unless otherwise provided in the bid information, the price of each bid must be kept firm for at least 60 days after the bid opening date. A bidder may specify the price will remain firm for a longer period than required by the bid information or this rule. If the bidder has not specified an expiration date for the price, the price will continue to remain firm until the bidder gives notice of intent to terminate the price. After such notice the University will have 10 days to accept the bid at the original bid price.

- i) Maintenance and repair service. If the bid information specifies that maintenance or repair service must be provided by the successful bidder, each bidder will specify in the bid whether the service will be provided by the bidder or through an arrangement with another identified person or firm.

- j) Taxes, licenses, assessments, and royalties.

- 1) The contractor shall pay all current and applicable city, county, state and federal taxes, licenses or assessments, including federal excise taxes, due on the performance of the contract, including, without thereby limiting the foregoing, those required by the Federal Insurance Contribution Act and the Federal and State Unemployment Tax Acts, together with all royalties due for any proprietary items. The contractor is exclusively liable for the payment of the taxes to the respective governments. In the event said taxes, licenses, assessments or royalties, or any part thereof are in the first instance charged to the University, the contractor shall, upon timely demand of the University, pay the University the amount thereof, plus all penalties which may have accrued thereon.

- 2) The University is exempted by Section 3 of the Use Tax Act [35 ILCS 105/3] from paying any of the taxes imposed by that Act, and sales to the University are exempt by Section 2 of the Retailers' Occupation Tax Act [35 ILCS 120/2] from any of the taxes imposed by that Act. The Department of Revenue of the State of Illinois under Rule No. 15, issued August 9, 1961, has declared that sales of materials to construction contractors for conversion into real estate for schools or charities are not taxable retail sales. The purchasing official will furnish the vendor with an exemption certification statement upon request.

- k) Federal excise tax. Bidders must not include in their prices any allowance for payment of federal excise tax, if the University is exempt from such taxes. If an order or contract is awarded for the purchase of an item that is subject to federal excise tax, the purchasing official will furnish the vendor with an exemption certificate upon request.

- l) State and federal laws and university rules. All bids and contracts are subject to this Part and to applicable federal laws and those of the State of Illinois, particularly the Illinois Purchasing Act, conflict of interest statutes, nondiscriminatory employment statutes

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

and equal employment opportunity laws. A certification is required in certain instances, and the form of this certification may be provided in the bid form. (See also subsection (p) of this Section.)

- m) Equal employment opportunity. A successful bidder awarded an order or contract agrees as follows. In the event of the contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Department of Human Rights (Department), Regulations of the Illinois Department of Human Rights Act and 44 Ill. Adm. Code 750.150, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulations. During the performance of this contract, the contractor agrees as follows:

- 1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are under utilized and will take appropriate affirmative action to rectify any such under utilization.
- 2) That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with 44 Ill. Adm. Code 750.150) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not under utilized.
- 3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, military status, or an unfavorable discharge from military service.
- 4) That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and 44 Ill. Adm. Code 750.150. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and 44 Ill. Adm. Code 750.150, the contractor will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 5) That it will submit reports as required by 44 Ill. Adm. Code 750.150, furnish all relevant information as may from time to time be requested by the Department and the contracting agency, and in all respects comply with the Illinois Human Rights Act and 44 Ill. Adm. Code 750.150.
- 6) That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and 44 Ill. Adm. Code 750.150.
- 7) That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
- n) Compliance with laws, regulations, and labor and employment provisions. The contractor agrees to comply with all laws, statutes, regulations, ordinances, ruling or enactments of any governmental authority that are applicable to the work or which in any way pertain to the project, including, but not limited to, the following statutes:
 - 1) Employment of Illinois Workers on Public Works Act [30 ILCS 570].
 - 2) Veterans Preference Act [330 ILCS 55].
 - 3) Public Works Employment Discrimination Act [775 ILCS 101].
 - 4) Prevailing Wage Act [820 ILCS 130].
- o) Federally financed purchases. For purchases financed in whole or in part by United States Government funds, the contractor and each subcontractor shall comply with the following statutes (and with regulations issued pursuant thereto, which are incorporated herein by reference):
 - 1) 18 U.S.C. 874 Prohibition of kickback from public works employees.
 - 2) 40 U.S.C. 276(c) Requiring filing of weekly statements of wages paid.
 - 3) By signing and submitting its bid, the bidder will be deemed to have signed and agreed to the provisions of the Certification of Nonsegregated Facilities, and certification of compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, 1682, 1683, and 1695).
 - 4) Copeland Regulations 29 CFR 3.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 5) Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 requiring affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era (38 U.S.C. 4212).
- 6) Section 503 of the Rehabilitation Act of 1973 requiring affirmative action to employ and advance in employment qualified handicapped individuals (29 U.S.C. 793).
- 7) Federal Executive Orders 11246 and 11375 requiring affirmative action and equal opportunity in employment for all persons without regard to race, color, religion, sex or national origin.
- p) Provisions required by law deemed inserted. Each and every provision of law and clause required by law to be inserted in any order or contract shall be deemed to be inserted therein; and the order or contract shall be read and enforced as though it were included therein; and if, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.330 How to Submit Bids

- a) Special envelope for sealed bids. A special envelope will be furnished for return of a sealed bid. The envelope containing the bid will show the following information on the outside:
 - 1) Address to which the bid is to be mailed or delivered.
 - 2) Date and time of the bid opening.
 - 3) Requisition or bid number or other project identification.
 - 4) Firm name and address of bidder.
- b) Where to submit bids. All bids must be submitted to the office at the address specified in the bid information.
- c) When to submit bids. Bid information will state the place, date and hour of opening of bids and the latest date for receipt of bids by the purchasing official.
- d) Modification or withdrawal of bids. A bidder may withdraw or modify a bid if notice of the withdrawal or modification is received by the purchasing official before the latest time specified for receipt of bids. Any such modification or withdrawal, however, must be made by letter and received by the purchasing official prior to the scheduled bid opening. When time is of the essence, the purchasing official may agree to receive modifications or withdrawals by printed form conveyed electronically or by telephone. An originally signed written confirmation of the telephone or electronically conveyed modification or withdrawal shall be mailed or delivered by the bidder on the same day. Withdrawal of bids after bid opening will not ordinarily be permitted; however, in those cases where, in the judgment of the University based on clear and demonstrable evidence, the bidder has

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- e) Late bids. No bids received after the time specified in the bid information will be considered. It is the bidder's responsibility to see that the bid is delivered at the time and place specified. All bids received after the specified time will be marked "Received too late for consideration", signed by the purchasing official and returned unopened.
- f) Eligibility of bidders. No person shall be eligible to bid on a contract, except for those procurements exempt from competitive selection procedures identified in Section 525.700 of this Part, unless such person has complied with the rules of the Illinois Department of Human Rights concerning eligibility of bidders.
- g) Bid reservations. The University reserves the right to reject any or all bids or any part thereof, to waive informalities and to accept the bids deemed to be in the best interest of the University (such as, the lowest priced responsive bid).

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.340 Bid Security

- a) Bid deposit. The bid information may require each bidder to file a bid deposit, the amount of which will not ordinarily exceed 5% of the bid amount, in the form of a certified check, bank draft or cashier's check, made payable to the governing Board of the University. A bid bond will be acceptable in lieu of the foregoing, if so specified in the bid information.
- b) Retention or use of bid deposit. The bid deposit will be considered as security for full performance of all obligations imposed on the bidder, under the law and this Part, including the obligation to keep the price or bid firm for as long a period as specified in the bid information, and the obligation to file a performance and/or payment bonds, if required, when a contract is awarded. If the bidder fails to perform any such obligations, the University will negotiate the bid deposit and retain from the proceeds thereof an amount sufficient to compensate it for damages suffered. The University may retain the bid deposit as liquidated damages if the bid information so specifies.
- c) Disposition of bid deposit. If a bidder is not one of the three lowest qualified bidders, the bid deposit will be returned to the bidder as soon as is practicable after the bid opening. The three lowest qualified bidders' deposits will be returned as soon as possible after the contract is awarded or, if a performance and/or payment bond is required, as soon as the successful bidder has filed an acceptable bond.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

Section 525.350 Submission of Samples

- a) How to submit samples. Any samples called for in the bid information should be addressed and submitted as instructed. Each sample must be labeled clearly with the bidder's name, address, bid information number and a brief description of the contents. Samples may be required even if there is no such requirement in the bid information (e.g. if a particular bidder is offering a product with which the University is not familiar). All transportation, packing and crating charges must be paid by the bidder, except where otherwise stated in the bid information.
- b) Representative sample. All samples submitted must be representative of the commodities or equipment which will be delivered if a contract is awarded. Samples submitted by successful bidders will be retained for use in checking items delivered under the contract, but the submission of samples shall not limit the right of the university to insist that commodities or equipment delivered must also meet the specifications of the bid information.
- c) Disposition of samples. Unless otherwise specified in the bid information, no payment will be made for samples. However, samples not destroyed by examination or testing will be returned to bidders (if so requested when samples are submitted by marking sample "please return sample"), at the bidder's expense.
- d) Liability for samples and demonstration equipment.
 - 1) The University shall not be held liable for other commodity samples or demonstration equipment. Receipt of commodities or demonstration equipment for tests and evaluation purposes shall not affect the University's right to evaluate other bid proposals or to award a purchase order or contract to another bidder.
 - 2) When demonstration equipment is being delivered to or installed on University premises, the contractor shall maintain adequate workers' compensation insurance and liability coverage for personal injury or property damage which shall be subject to approval by the University.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

SUBPART E: HANDLING OF BIDS

Section 525.400 Handling of Sealed Bids

- a) Formal bid opening. All sealed bids will be opened, the bids read aloud and names of the bidders recorded at the place and time specified. The bid opening will be conducted by the Purchasing official or designated representatives.
- b) Bidders may be present. The bidder or representative or any other interested party may be present at any bid opening.
- c) Bid speaks for itself. If the person reading the bid makes an error,

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- d) the figure given in the bid shall govern. When all bids have been opened and read, the persons conducting the bid opening will sign the following certification: "I hereby certify that the bids submitted by the bidders whose names are recorded above were opened, read and recorded at the place and time specified in the bid information."
- e) Prompt tabulation and award. All sealed bids are tabulated for comparison and awards made as soon as is practicable after the opening and recording of the bids.
- f) Public record of sealed bids. The record of bidders' names prepared at the bid opening and all the bids and tabulation sheets will be kept by the University for a period of not less than two years after the award is made and will be available for inspection after an award is made at reasonable hours by any interested person.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.410 Handling of Open Bids and Sealed Proposals

Open bids and sealed proposals will be examined and the award made as soon as is practicable after the time specified for submission of the bids and sealed proposals. All bids, proposals, and tabulation sheets (if any) will be kept by the University for at least two years after the award is made and will be available for inspection after an award is made at reasonable hours by any interested person.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

SUBPART F: AWARING OF CONTRACTS

Section 525.500 Standards for Awarding Contracts

- a) Lowest and best bid. The awards will be made to the lowest bidder, considering price, responsibility and capability of bidder, availability of funds and all other relevant factors, provided the bid meets the specifications and other requirements of the bid information. The standards followed in determining which is the lowest and best bid are outlined below.
- b) Cash discounts. In determining the lowest bid, cash discounts, when stated separately, will be taken into account, unless stated otherwise in the bid information.
- c) Trade and quantity discounts. Trade and quantity discounts may be indicated, but should always be deducted by the bidder in calculating the unit price quoted.
- d) Illinois sales, service and use tax. Bidder should not include Retailers' Occupation Tax, Use Tax or Federal Tax in the quotation. Receipts from sales to the University are normally exempt from these taxes.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- e) Unit price governs. In case of a mistake in the extension of a price, the unit price will govern unless otherwise stated in the bid information.
- f) Awards of any or all items. An award may be made to the lowest aggregate bidder for all items or on an individual item basis unless otherwise stated in the bid information. If a split award is not acceptable to a bidder, it must be so stated in the bid.
- g) Costs. Projected delivery, installation, and operational costs of equipment may be considered.
- h) Guarantees and warranties. Terms and conditions of bidders' and manufacturers' guarantees and warranties will be considered in the evaluation of bids.
- i) An otherwise qualified bidder who will fulfill the contract through the use of products made of recycled materials may be given, on a pilot basis or pursuant to a pilot study, preference over other contractors unable to do so, provided that the cost included in the proposal of products made of recycled materials is not more than 10% greater than the cost of such products not made of recycled materials.
- j) Repair and service requirements. The bidder's or manufacturer's ability to meet specified repair and service requirements may be used in evaluating bids.
- k) Tie bids. If two or more bids meeting the specifications and other requirements of the bid information are tied for low price, the bids will be treated as follows:
 - 1) If there is a significant difference in the responsibility of the bidders (including ability to deliver in the quantity and at the time required), the award will be made to the bidder who is deemed to be the most responsible.
 - 2) If there is no significant difference in the responsibility of the bidders, but there is a difference in the quality of the commodities or services offered, the bid offering the best quality or services will be accepted.
 - 3) If there is no significant difference in the responsibility of the bidders and no difference in the quality of the items and service offered, the bid offering the earliest delivery time will be accepted in any case in which the bid information specified that the needs of the University require as early delivery as possible. In all other cases, delivery time will not be considered in making awards so long as the bidder states delivery will occur not later than the time specified in the bid information as the latest acceptable delivery time.
 - 4) If all else is equal, preference will be given to resident bidders, as defined in subsection (1) below. Preference among resident bidders may be given to the resident bidders offering commodities or equipment grown or produced in Illinois.
 - 5) If the bids quoting the same price are equal in every respect, the award may be split or made by lot.
- l) Resident bidder.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 1) When a public contract is to be awarded to the lowest responsible bidder, a resident bidder must be allowed a preference as against a nonresident bidder from any state which gives or requires a preference to bidders from that state. The preference is to be equal to the preference given or required by the state of the nonresident bidder.
- 2) "Resident bidder" means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced, including a foreign corporation duly authorized to transact business in this State which has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any bid for a public contract is first advertised or announced.
- 3) Subsections (1)(1) and (2) above do not apply to any contract for any project for which Federal funds are available for expenditure when such paragraphs may be in conflict with Federal law or Federal regulation.
- m) Ownership. The bidder for a contract involving an expenditure subject to competitive selection procedures, except for those categories exempted from competition under Section 525.700 of this Part, shall file or have on file with the University a disclosure statement naming each individual having a beneficial interest of more than 7 1/2% in the bidding enterprise and each individual who, together with his spouse or minor children, has a beneficial interest of more than 15% in the bidding enterprise and, if the bidder is a corporation, the names of all of its officers and directors, in compliance with Section 6-1 of the Act.
- n) Contract renewal option. Certain bids may be solicited and contracts issued with renewal clauses to bind the contractor to a renewal period at the sole option of the University. In such cases, bidders will be asked to bid a firm price to be applicable during the renewal period, if the University chooses to renew, or, in the alternative, to bid prices geared to pertinent commodity price indexes to be applicable in renewal periods, if the University chooses to renew. In all cases where the renewal option is involved, the bid information will state that the University reserves the right to renew the contract, if awarded, in accord with prices (firm or geared to pertinent price indexes) included in bids received and that renewal on such terms is at its sole option.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.510 Rejection of Bids

- a) Nonresponsive bids. Any bid which does not meet the requirements of

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- any such contract.
- 3) In addition, the laws of the State of Illinois provide that it is unlawful for any firm, partnership, association or corporation from which any such person as described in subsection (d)(2) above shall be entitled by contract, stock ownership or otherwise to receive more than 7 1/2% of the total distributable income thereof, to have, acquire, obtain or hold any such contract or direct pecuniary interest therein.
- 4) In addition, the laws of the State of Illinois provide that it shall be unlawful for any firm, partnership, association or corporation from which any such person as described in subsection (d)(2) above, together with his or her wife or husband or minor child or children, or any of them shall by contract, stock ownership or otherwise be entitled to receive, in the aggregate, more than 15% of the total distributable income thereof, to have, acquire, obtain or hold any such contract or direct pecuniary interest therein.
- 5) In the examples listed under subsections (d)(1) through (4) above, the Governor may exempt named individuals as provided by Section 11.5 of the Illinois Purchasing Act [30 ILCS 505/11.5].
- 6) No member of the University's governing Board shall be directly or indirectly interested in any contract to be made by the Board for any purposes whatsoever.
- 7) No contract will be awarded to a University officer or employee or to a firm, partnership, association or corporation the owner or principal owners or major officers or primary employees of which are officers or employees of the University, unless such purchase or contract is deemed essential to University operations and is approved by the President of the University (or designee) and such approval is filed with the purchase order or contract.
- 8) No contract will be awarded to a member of the immediate family of an officer or employee of the University or to a firm, partnership, association or corporation the owner or principal owners or major officers or primary employees of which are members of the immediate family of officers or employees of the University, unless such purchase or contract is deemed beneficial to University operations and is approved by the President of the University (or designee) and such approval is filed with the purchase order or contract. Such contracts will be deemed beneficial to the University when necessary to the operational or academic or research needs of the University and only when economically procurable from the individual or firm in question.
- e) Attempt to influence award.
 - 1) No person on a bidders list or who submits a bid shall give or offer to give, directly or indirectly, any money, article or other valuable consideration to any officer or employee of the University for the purpose of influencing said officer or employee of the University.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- the bid information or does not comply with this Part may be rejected.
- b) Alterations and erasures. Bids containing any material alteration or erasure may be rejected, unless the change is initialed by the bidder.
- c) Responsibility of the bidder.
 - 1) The purchasing official may at any time make a supplementary investigation as to the responsibility or qualification of any bidder, even though the bidder is on a bidders list. This may include investigation of financial responsibility, insurability, effective equal opportunity compliance, capacity to produce or sources of supply, performance record in the business or industry, ability to provide required maintenance service and other matters relating to the bidder's probable ability to deliver in the quality, quantity and within the time required under the contract, if it is awarded to the bidder. The purchasing official may require the submission of written statements from the bidder or other persons concerning any such matters.
 - 2) If the University concludes that a particular bidder appears not to be sufficiently responsible to assure adequate performance on a contract, the bid will be rejected.
 - 3) If, in the judgment of the University, there is some question about the responsibility of the low bidder but the University would be adequately protected by the filing of a performance or payment bonds or both (or the deposit of a certified or cashier's check, if approved by the University) as security for performance, it may require the low bidder to file such bonds (or deposit such a check), even though not required by the bid information, and, upon the filing of the bond (or deposit of the check), may make the award. Such bond(s) shall be filed within a specified number of days.
- d) Conflicts of interest. Any bid, the acceptance of which would result in any of the following prohibited types of contracts, will be subject to rejection.
 - 1) It is unlawful for any member of the General Assembly to be interested, directly or indirectly, in any State contract authorized by any law (including any appropriations statute) passed during the term for which the member was elected, provided, however, that any contract made prior to the knowledge election and completed within six months after the member takes office is valid.
 - 2) The laws of the State of Illinois provided that no elective State officer or member of the General Assembly or any person employed in any of the offices of the State Government or the wife, husband or minor child of any such person shall have, acquire, obtain or hold any contract which will be wholly or partly satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois, nor shall any such person have, acquire, obtain or hold any direct pecuniary interest in

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 2) If any person makes or offers to make a gift such as prohibited by subsection (e)(1) above, all bids submitted by the bidder will be rejected, and the bidder will be barred from further bidding for a period of time fixed by the University, not to exceed one year.
- f) Collusive bids. If, in the judgment of the University, there is reasonable ground to believe that there is an agreement among bidders, or between them and prospective bidders, to restrain the bidding by establishing a fixed price or any other means, the bids will be rejected, and the bidder and prospective bidders will be barred from further bidding for a period of time not to exceed one year.
- g) Identical bids. Two or more identical bids or indications of collusion in bidding shall be reported to the Illinois Attorney General.
- h) Rejection of all bids. The University may reject all bids, and a notice shall be sent to all bidders by means of resolicitation of bids or to low bidder if there is to be no rebidding.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.520 Binding Contract with the University

- a) Purchase order. After the lowest and best bid has been accepted by the University, the purchasing official will send the successful bidder a purchase order or a formal contract or both.
- b) Binding on bidder.

- 1) The University's acceptance of a bidder's offer will create a binding contract covering the following:

- A) All the specifications, terms and conditions in the bid information.
- B) The provisions of this Part.
- C) The bidder's price and terms of payment.
- 2) The successful bidder must perform in accordance with contract so made, or the bidder will be liable to the University for any damages.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.530 Supplementary Purchases

Supplementary purchases will be permitted under the following conditions:

- a) When the University issues an award after following the above bidding procedure, it may, at any time within ninety days thereafter, issue additional purchase orders or contracts to the same contractor or amendments to the original purchase order or contract for an additional quantity at the same unit price and on the same terms and conditions, if:

- 1) The contractor indicates that the additional purchase orders or

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- contracts will be accepted if issued.
- 2) The market price of the commodities, services or equipment in question has not gone down since the original purchase.
- 3) The amount of the additional purchases is not of such magnitude as to constitute a substantial or material variation from the first purchase order or contract.
- b) Notwithstanding the above, no amount of funds, in addition to those provided for in a contract for repairs, maintenance, remodeling, renovation or construction, may be obligated or expended unless the additional work to be performed or materials to be furnished are germane to the original contract. Even if germane to the original contract, no additional expenditures or obligations may, in their total combined amount, be in excess of the percentages of the original contract amount as provided in Section 9.02 of the Illinois Purchasing Act unless they have received the prior written approval of the Capital Development Board.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.540 Negotiation of Award

The University may negotiate with the successful bidder incorporating prices, terms, and conditions better than originally bid provided the salient features of the goods or services are not diminished. Examples of standards and circumstances which the University may use to negotiate include, but are not limited to, when prices, terms or conditions from the low responsive and responsible bidder are better than those provided in the original bid, such as split deliveries, temporary storage of shipment, improved payment terms and change in delivery site.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

SUBPART G: PERFORMANCE BY SUCCESSFUL BIDDER

Section 525.600 Performance and Payment Bond

- a) May be required. The University shall have the right to require that the successful bidder file a Performance Bond or Payment Bond or both in a designated amount and written by a surety company acceptable to the University. It may be required that the bonds be filed within a specified number of days after the award is made, or the contract shall be cancelled and the contractor shall be liable for any damages. Bond costs shall be borne by the successful bidder, unless otherwise stated in the bid information.
- b) Amount. Such Performance and Payment Bonds may be required in any amount up to 100% of the amount of the contract, depending upon the nature of the transaction.
- c) Surety required. In addition to signing the bonds as principal, the

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

successful bidder must have the bonds signed by a surety having a rating acceptable to the University, and authorized to do business in the State of Illinois. If the surety writing the bonds has its authority to do business in this State revoked or if for any reason it withdraws from doing business in this State, the bidder must promptly furnish substitute bond(s) written by a surety acceptable to the University.

d) Condition of bond. Any such bond shall be conditioned on full performance of all obligations imposed on the bidder by the contract with the University. The bond(s) shall provide that, if the bidder fails to perform any of such obligations the University may recover from the bidder and the surety (or either of them) any and all damages suffered because of the breach of contract or failure to perform in accordance with the terms of the contract.

e) Source of supply may also be required to file bonds. If the bidder does not have a stock of the commodity or equipment in question in the amount required or the facilities to produce the item in such amount, the University may, in addition, require the bidder to have the source of supply furnish a performance or payment Bond, or both written by a surety acceptable to the University, conditioned on such source supplying the bidder as required in the bid.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.610 Insurance Requirements

Contractors making deliveries on the premises of the University may be required to furnish Certificates of Insurance showing policy numbers and coverage dates for Workers' Compensation, General Liability and Automobile Liability Coverages. Contractors furnishing labor and material at any campus site will be required to submit Certificates of Insurance showing policy numbers and coverage dates for General Liability and Contractual Liability holding the University harmless, as well as proof of Workers' Compensation and Automobile Liability Coverages. Liability limits will be specified in the bid information. Insurance companies providing coverage must have a rating acceptable to the University.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.620 Deliveries Under the Contract

a) After award of order. Deliveries shall be made in accordance with the written order of the University or as stated in the contract at the times and places and in the amounts specified in the bid information and in such order for delivery. Receipt of any early or late deliveries shall not constitute a waiver of any of the rights of the University under the contract. Deliveries before or after the specified date may be made only with the prior approval of the

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

purchasing official. The purchasing official may reject unapproved early or late deliveries.

b) Delivery point. All deliveries shall be made to the point or points specified in the bid information, purchase order or contract and shall be F.O.B. delivered unless otherwise specified in the bid information. Supporting data. Pertinent data shall be included with all shipments to insure proper identification, receipt, handling, inspection, installation and use of the commodity or equipment.

d) Routing of shipments. The purchasing official reserves the right to route all shipments.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.630 Inspection

a) All deliveries subject to inspection. Any commodities or equipment that fails to perform in any respect, including failure:

- 1) to meet the specifications,
 - 2) to conform to the vendor's samples, or
 - 3) to be in good condition when delivered,
- will be subject to rejection.

b) Notice to contractor. Notice of any such rejection based on defects that should be disclosed by ordinary methods of inspection will be given to the contractor within a reasonable time after delivery of the item. Notice of latent defects which would make the items unsuitable for the purpose for which they are required may be given by the purchasing official within a reasonable time after discovery.

c) Contractor must remove rejected items. The contractor may be required to remove immediately, at its own expense, any items rejected by the University. If the contractor fails to remove the items, the University, at its option, may remove and store the items at contractor's expense or may sell them and remit the proceeds of the sale (less any expenses incurred as a result of default) to the contractor.

d) Inspection at source. In some cases, the University may require that the contractor permit preliminary inspection of the commodities or equipment at the factory, plant or other establishment where they are produced or grown.

e) Other rights of University. Nothing contained herein shall be construed to limit in any way rights the University may have under any law, including the Uniform Commercial Code [810 IUCC 5], applicable to any transaction covered by this Part.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.640 Assignments by Successful Bidder

Contract nonassignable without approval. Because the responsibility of the

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

individual bidder is an essential element of the contract with the University, a person to whom such a contract has been awarded may not assign any interest in the contract, or any funds becoming due thereunder, without the prior consent in writing from the University. Any purported assignment without prior written consent shall be null and void.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.650 Cancellation of Contract by the University and Compensation for Damages

- a) Cancellation for breach of contract. In any of the following cases, the University shall have the right to cancel any contract without prejudice to any other right or remedy the University may have:
 - 1) If the successful bidder fails, within the time specified, to sign a contract or to furnish required performance or other bonds.
 - 2) If the contractor fails to make delivery at the place or within the time specified.
 - 3) If any commodity or equipment delivered under the contract is rejected, even though the contractor offers to replace the items promptly.
 - 4) If the contractor is guilty of misrepresentation.
 - 5) If the contractor is adjudged bankrupt, if it makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of its insolvency.
 - 6) If the contractor refuses or fails, except in cases for which an extension of time is provided, to supply enough properly skilled workmen or proper materials.
 - 7) If the contractor fails to make prompt payment to subcontractors or for material or labor.
 - 8) If the contractor violates any provision of the contract, purchase order or this Part.
 - 9) If the contract was obtained by fraud, collusion, conspiracy or other unlawful means.
 - 10) If the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
- b) Withholding monies to compensate University for damages. If there is a breach of contract or if a contract is cancelled, the University may deduct from a bid deposit or from whatever is owed the contractor on that or any other contract an amount sufficient to compensate the University for any damages suffered by it because of the contractor's breach of contract or other failure on its part, without prejudice to any other right or remedy the University may have.
- c) Damages. The damages for which the University may be compensated as provided in subsection (b) above or by a suit on the contractor's performance bond or by other legal remedy shall include among others:
 - 1) The additional cost of commodities or equipment bought elsewhere.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- 2) The additional cost of completing the work called for under the contract.
- 3) Cost of repeating the bidding procedure.
- 4) Any expenses incurred because of delay in receipt of commodities or equipment, or any expenses incurred because of delays in completion of construction, renovation or rehabilitation work.
- 5) Any other damages caused by the breach of contract or other failure by the contractor including but not limited to loss of income and consequential damages.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.660 Billing Procedures

- a) Billing Documents. To bill the University in connection with a purchase, the contractor may be required to fill out the invoice-voucher form provided by the University. At the time the contractor delivers the commodities or equipment, the contractor should submit copies as directed on the invoice-voucher. The contractor will receive a copy as indicated on the invoice-voucher. Otherwise, the contractor should submit invoices as specified on the purchase order or contract.
- b) Detailed description of commodities or equipment. The invoice or invoice-voucher should give a complete and detailed description of the commodities or equipment delivered.
- c) Partial payments. If more than one shipment is required under a purchase order or contract, the University may, but shall not be required to, make partial payment of the contract price as it receives the contractor's invoice or invoice-vouchers relating to the separate deliveries.
- d) Computation of cash discounts. If the contractor allows a cash discount, the period of time in which the University must make payment to qualify for the discounts will be computed from the date the University
 - 1) receives the invoice or invoice-voucher (correctly filled out) or
 - 2) receives and accepts the commodities or equipment, whichever is later. In addition, if any commodity or equipment is rejected, all time from mailing of the notice of rejection to the acceptance of items delivered shall be excluded from the discount period.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.670 Construction Contracts

- a) General procedures.
 - 1) In the case of contracts for construction of buildings or for other construction work in or about buildings or grounds where

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

- remodeling, renovation or construction involving an expenditure in excess of the amount stipulated by Section 9 of the Illinois Purchasing Act [30 ILCS 505/9] shall be subject to the supervision of a licensed architect or engineer, and no payment shall be paid for such remodeling, renovation or construction unless the voucher for such work is accompanied by a written certificate of such licensed architect or engineer that the payment represents work satisfactorily completed, or labor, or materials incorporated in or stored at the site of such work.
- d) Periodic payments. When provided in the contract, periodic payments can be made during the course of such work upon a certificate of a licensed architect or engineer, indicating the proportionate amount of the total work completed satisfactorily.
- e) Retained percentage. When periodic payments are made, the University shall retain a fixed percentage, specified in the contract, to insure faithful completion of the contract.
- f) Improvements to leased real estate. The procedures set forth in this Part shall apply, as appropriate, to contracts for improvements to real estate leased to the University.

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

SUBPART H: OTHER PROCEDURES

Section 525.700 Competitive Selection Procedures not Required

In the following cases, the University may issue a purchase order directly, without following the competitive selection procedures described in Sections 525.50 and 525.60 of this Part:

- a) Where the goods or services to be procured are economically procurable from only one source, such as contracts for local exchange telephone service, electrical energy and other public utility services, books, pamphlets and periodicals and specially designed business and research equipment and related supplies. Such items are examples of single source items and are not intended to be an exhaustive listing.
- b) Where the services required are for professional or artistic skills. For architects, engineers, and land surveyors, see the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535].
- c) Emergencies involving public health, public safety, or where immediate expenditure is necessary for repairs to University property in order to protect against further loss of or damage to University property, to prevent or minimize serious disruption in University services or to insure the integrity of University records.
- d) Expenditures for personal services paid to employees or officers of a State agency.
- e) Contracts for repairs, maintenance, remodeling, renovation or construction of a single project involving an expenditure not to

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

the entire estimated cost of such work exceeds the amount stipulated by Section 6(a)(1) of the Illinois Purchasing Act [30 ILCS 505/6(a)-(1)], prospective bidders, as well as architects and engineers employed in connection with such projects, may be prequalified to determine their responsibility (for architects, engineers, and land surveyors, see the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [30 ILCS 535]). If the total estimated cost of such work exceeds the amount stipulated by Section 6(a)-(1) of the Illinois Purchasing Act, separate specifications shall be prepared for all equipment, labor and materials in connection with the following five subdivisions of work to be performed:

- A) Plumbing.
- B) Heating, piping, refrigeration and automatic temperature control systems, including the testing and balancing of such systems.
- C) Ventilating and distribution systems for conditioned air, including the testing and balancing of such systems.
- D) Electrical wiring.
- E) General Contract Work

- 2) Those specifications shall be drawn so as to permit separate and independent competitive bidding upon each of the above five subdivisions of work. As used in this Section, "competitive bidding" means bidding in which bids are publicly solicited and opened, the terms and conditions of the solicitation and the bidding process apply equally to all bidders, and bids are awarded to the lowest responsive responsible bidder. All contracts awarded for any part thereof shall award the five subdivisions of such work separately to responsible and reliable persons, firms or corporations engaged in these classes of work. Such contracts, at the discretion of the University, may be assigned to the successful bidder on the general contract work or to the successful bidder on the subdivision of work designated by the University prior to bidding as the prime subdivision of work, with the provision that all payments will be made directly to the contractors for the five subdivisions of such work upon compliance with the conditions of the contract. Any contract may be let for one or more buildings in any project to the same contractor. Specifications shall require, however, that unless the buildings are identical, a separate price shall be submitted for each building. The contract may be awarded to the lowest responsible bidder for each or all of the buildings included in the specifications.

- b) Request for payment form furnished by University. To bill the University for remodeling, renovation or construction work done, the contractor must fill out the University Request for Payment form, when required.
- c) Certification by licensed architect or engineer. Any contract or

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

exceed the amount stipulated by Section 6(a)(5) of the Illinois Purchasing Act [30 ILCS 505/6(a)(5)] and not involving a change or increase in the size, type or extent of an existing facility.

- f) Contracts for repairs, maintenance or any other services not specifically exempt from a competitive selection procedure under the Illinois Purchasing Act where individual orders for such services do not exceed the amount stipulated by Section 6(a)(6) of the Illinois Purchasing Act [30 ILCS 505/6(a)(6)].
- g) Purchases of commodities and equipment where individual orders are less than the amount stipulated by Section 6(a)(7) of the Illinois Purchasing Act [30 ILCS 505/6(a)(7)].
- h) Where a contract for maintenance, or servicing of, or provision of repair parts for equipment is made with the manufacturer or authorized service agent of that equipment and where such maintenance, servicing or provision of parts can best be performed by the manufacturer or authorized services agent, or such contract would otherwise be advantageous to the State; but this does not apply to the five subdivisions of work applicable to construction contracts listed in Section 525.670 of this Part.
- i) Where the goods or services are procured from another governmental agency. (This allows procurement from federal, state and local governmental units.)
- j) Purchases and contracts for the use, purchase, delivery, movement or installation of data processing equipment and software or services and telecommunications and interconnect equipment, software and services.
- k) Any contract for duplicating machines and supplies.
- l) Any contract for the purchase of natural gas when the cost is less than that offered by a public utility.
- m) Where court order or federal law, regulation or procurement practices prohibits or effectively prevents acquisition of the goods or services by competitive procurement.
- n) Other circumstances where permitted the Act.
- o) Where the products and services are procured from any qualified not-for-profit agency for the severely handicapped which:
 - 1) complies with Illinois laws governing private not-for-profit organizations,
 - 2) is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor, and
 - 3) meets the Illinois Department of Rehabilitation Services just standards for rehabilitation facilities.
- p) Purchases from a qualified private business with a supported employment workforce as defined in Section 8.5 of the Illinois Purchasing Act [30 ILCS 505/8.5].
- q) Purchases of and contracts for office equipment and associated supplies when such contracts provide for prices that are equal to or lower than Federal General Services Administration contracts and when such contracts or pricing result in economical advantage to the University.

BOARD OF TRUSTEES OF ILLINOIS PUBLIC UNIVERSITIES

NOTICE OF PROPOSED REPEALER

(Source: Amended at 21 Ill. Reg. 9413, effective July 15, 1997)

Section 525.710 Procedures for Appeal

A decision of a purchasing official shall be final unless a subsequent written appeal is made promptly. Any decision rendered by a purchasing official pursuant to this Part may be appealed by filing a written statement setting forth all the facts and circumstances together with the basis for making such appeal with the chief business officer at the University.

(Source: Amended at 13 Ill. Reg. 16510, effective October 10, 1989)

Section 525.720 Solicitations for Sale to the University (Repealed)

(Source: Repealed at 21 Ill. Reg. 9413, effective July 15, 1997)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED REPEALER

Department of Natural Resources
524 South Second Street
Springfield, IL 62701
(217)782-1809

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Illinois Weather Modification Control Act

2) Code Citation: 68 Ill. Adm. Code 900

3) Section Number: Adopted Action:
900.10 Repeal
900.20 Repeal
900.30 Repeal
900.40 Repeal
900.50 Repeal
900.60 Repeal
900.70 Repeal
900.80 Repeal
900.90 Repeal

4) Statutory Authority: P.A. 81-999 repealed Statutory Authority for these rules.

5) Effective Date of Amendments: June 4, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) Date filed in Agency Principal Office: June 4, 1998

9) Notice(s) of Proposal published in Illinois Register: 22 Ill. Reg. 3660, February 20, 1998

10) Has JCAR issued a Statement of Objection to these rules? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending of this Part? No

15) Summary and purpose of amendments: The Weather Modification Control Act was repealed December 31, 1991 and, therefore, these rules should be repealed.

16) Information and question regarding this adopted amendment shall be directed to:

Stan Yonkauskis, Jr., Legal Counsel

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Tiered Approach to Corrective Action Objectives

- 2) Code Citation: 35 Ill. Adm. Code 742

- 3) Section Number Adopted Action
 742.210 Amended
 742.310 Amended
 742.900 Amended
 742.Appendix A.Table H Amended
 742.Appendix B.Table C Amended
 742.Appendix B.Table D Amended
 742.Appendix C.Table I Amended

- 4) Statutory Authority: 415 ILCS 5/27, 28

- 5) Effective Date of Amendments: June 8, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these amendments contain incorporations by reference? Yes. The rulemaking contains amendments to incorporations by reference found at Section 742.210.

- 8) Date filed in Board's principal office: June 4, 1998

- 9) Notice of proposal published in Illinois Register: 21 Ill. Reg. 16982 (December 26, 1997)

- 10) Has JCAR issued a statement of objections to these rules? No

- 11) Differences between proposal and final version: Added an update to a USEPA Publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods". Struck Bis(2-ethylhexyl)phthalate, N-Nitrosodiphenylamine and 2,4,6-Trichlorophenol from Appendix A, Table H. Nonsubstantive changes to Sections 742.415 and 742.510 were withdrawn.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these amendments replace an emergency rule currently in effect? No

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and purpose of amendments: This rulemaking, Docket R97-12(C), amends 35 Ill. Adm. Code 742. These rules were previously adopted and amended in Dockets R97-12(A) and (B), adopted by the Board on June 5, 1997 and December 4, 1997, respectively. Docket (A) was published in the Illinois Register on June 27, 1997, at 21 Ill. Reg. 7942. Docket (B) was

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

published in the Illinois Register on December 19, 1997, at 21 Ill. Reg. 16391.

These amendments revise Appendix A.Table H entitled "Chemicals Whose Tier 1 Class I Groundwater Remediation Objective Exceeds the 1 in 1,000,000 Cancer Risk Concentration". As a consequence of changes to Appendix A.Table H, Appendix B.Tables C and D have been amended. The remaining amendments revise certain Sections in Part 742 to make non-substantive grammatical, typographical, and mechanical changes that were identified after the adoption of Dockets (A) and (B).

This rulemaking, Docket R97-12(C), was filed with the Pollution Control Board by the Illinois Environmental Protection Agency (Agency) and the Illinois Environmental Regulatory Group. 35 Ill. Adm. Code 742 was originally adopted by the Board in response to the directive of the Legislature in P.A. 89-431, effective December 15, 1995, and amended by P.A. 89-443, effective July 1, 1996. P.A. 89-431 and P.A. 89-443 established a Title XVII in the Environmental Protection Act (Act), entitled "Site Remediation Program". Among other things, the rules established procedures for the development of risk-based remediation objectives for remediation sites (also known as TACO). The original TACO rules were adopted in Docket R97-12(A) on June 5, 1997 and became effective on July 1, 1997.

A Tier 1 analysis requires the remediation applicant to compare contamination levels of constituents of concern at the remediation site to pre-determined remediation objectives. If any of the contaminants of concern exceed the pre-determined levels, the remediation applicant can remediate until the objectives are achieved, or it can perform a Tier 2 or Tier 3 remediation.

A Tier 2 analysis uses equations (Soil Screening Level and Risk Based Corrective Action) set forth in the rules to develop alternative remediation objectives for constituents of concern, using site-specific information. If any contaminants of concern are found to exceed the remediation objectives using the Tier 2 equations, the remediation applicant can either remediate until the objectives are achieved or develop alternative objectives using a Tier 3 analysis.

A Tier 3 analysis allows the remediation applicant to develop remediation objectives using alternative parameters (so long as the remediation applicant provides a mathematical justification for the use of the modified or alternative parameters) not found in Tier 1 or Tier 2. If any of the contaminants of concern are found to exceed the Tier 3 remediation objectives, the remediation applicant would be required to remediate until it achieves those objectives.

- 16) Information and questions regarding the adopted amendments shall be

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED AMENDMENTS

directed to:

Amy Muran Felton, Attorney
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312-814-7011

Request for copies of the June 4, 1998 Board opinion and order should be addressed to Victoria Agyeman at 312-814-3620, or at the above address, and should reference Docket R97-12(C).

The full text of the Adopted Amendments begins on the next page:

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED AMENDMENTS
TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER f: RISK BASED CLEANUP OBJECTIVES
PART 742
TIERED APPROACH TO CORRECTIVE ACTION OBJECTIVES

	SUBPART A: INTRODUCTION
Section	
742.100	Intent and Purpose
742.105	Applicability
742.110	Overview of Tiered Approach
742.115	Key Elements
742.120	Site Characterization
	SUBPART B: GENERAL
Section	
742.200	Definitions
742.205	Severability
742.210	Incorporations by Reference
742.215	Determination of Soil Attenuation Capacity
742.220	Determination of Soil Saturation Limit
742.225	Demonstration of Compliance with Remediation Objectives
742.230	Agency Review and Approval

	SUBPART C: EXPOSURE ROUTE EVALUATIONS
Section	
742.300	Exclusion of Exposure Route
742.305	Contaminant Source and Free Product Determination
742.310	Inhalation Exposure Route
742.315	Soil Ingestion Exposure Route
742.320	Groundwater Ingestion Exposure Route
	SUBPART D: DETERMINING AREA BACKGROUND
Section	
742.400	Area Background
742.405	Determination of Area Background for Soil
742.410	Determination of Area Background for Groundwater
742.415	Use of Area Background Concentrations
	SUBPART E: TIER 1 EVALUATION

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section
742.500 Tier 1 Evaluation Overview
742.505 Tier 1 Soil and Groundwater Remediation Objectives
742.510 Tier 1 Remediation Objectives

SUBPART F: TIER 2 GENERAL EVALUATION

Section
742.600 Tier 2 Evaluation Overview
742.605 Land Use
742.610 Chemical and Site Properties

SUBPART G: TIER 2 SOIL EVALUATION

Section
742.700 Tier 2 Soil Evaluation Overview
742.705 Parameters for Soil Remediation Objective Equations
742.710 SSL Soil Equations
742.715 RBCA Soil Equations
742.720 Chemicals with Cumulative Noncarcinogenic Effects

SUBPART H: TIER 2 GROUNDWATER EVALUATION

Section
742.800 Tier 2 Groundwater Evaluation Overview
742.805 Tier 2 Groundwater Remediation Objectives
742.810 Calculations to Predict Impacts from Remaining Groundwater Contamination

SUBPART I: TIER 3 EVALUATION

Section
742.900 Tier 3 Evaluation Overview
742.905 Modifications of Parameters
742.910 Alternative Models
742.915 Formal Risk Assessments
742.920 Impractical Remediation
742.925 Exposure Routes
742.930 Derivation of Toxicological Data

SUBPART J: INSTITUTIONAL CONTROLS

Section
742.1000 Institutional Controls
742.1005 No Further Remediation Letters
742.1010 Restrictive Covenants, Deed Restrictions and Negative Easements Ordinances
742.1015 Highway Authority Agreements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART K: ENGINEERED BARRIERS

Section
742.1100 Engineered Barriers
742.1105 Engineered Barrier Requirements

APPENDIX A General

ILLUSTRATION A Developing Soil Remediation Objectives Under the Tiered Approach

ILLUSTRATION B Developing Groundwater Remediation Objectives Under the Tiered Approach

TABLE A Soil Saturation Limits (C[sat]) for Chemicals Whose Melting Point is Less Than 30°C

TABLE B Tolerance Factor (K)

TABLE C Coefficients {A[N-I+1]} for W Test of Normality, for N=2(1)50
TABLE D Percentage Points of the W Test for N=3(1)50

TABLE E Similar-Acting Noncarcinogenic Chemicals

TABLE F Similar-Acting Carcinogenic Chemicals

TABLE G Concentrations of Inorganic Chemicals in Background Soils

TABLE H Chemicals Whose Tier 1 Class I Groundwater Remediation Objective Exceeds the 1 in 1,000,000 Cancer Risk Concentration

APPENDIX B Tier 1 Tables and Illustrations

ILLUSTRATION A Tier 1 Evaluation

TABLE A Tier 1 Soil Remediation Objectives for Residential Properties

TABLE B Tier 1 Soil Remediation Objectives for Industrial/Commercial Properties

TABLE C pH Specific Soil Remediation Objectives for Inorganics and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route (Class I Groundwater)

TABLE D pH Specific Soil Remediation Objectives for Inorganics and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route (Class II Groundwater)

TABLE E Tier 1 Groundwater Remediation Objectives for the Groundwater Component of the Groundwater Ingestion Route

TABLE F Values Used to Calculate the Tier 1 Soil Remediation Objectives for the Soil Component of the Groundwater Ingestion Route

APPENDIX C Tier 2 Tables and Illustrations

ILLUSTRATION A Tier 2 Evaluation for Soil

ILLUSTRATION B Tier 2 Evaluation for Groundwater

ILLUSTRATION C US Department of Agriculture Soil Texture Classification

TABLE A SSL Equations

TABLE B SSL Parameters

TABLE C RBCA Equations

TABLE D RBCA Parameters

TABLE E Default Physical and Chemical Parameters

TABLE F Methods for Determining Physical Soil Parameters

TABLE G Error Function (erf)

TABLE H Q/C Values by Source Area

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

ASTM D 2937-94, Standard Test Method for Density of Soil in Place by the Drive-Cylinder Method, approved June 15, 1994.

ASTM D 854-92, Standard Test Method for Specific Gravity of Soils, approved November 15, 1992.

ASTM D 2216-92, Standard Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992.

ASTM D 4959-89, Standard Test Method for Determination of Water (Moisture) Content of Soil by Direct Heating Method, approved June 30, 1989 (reapproved 1994).

ASTM D 4643-93, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 15, 1993.

ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter, approved June 29, 1990.

ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).

ASTM D 1140-92, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 um) Sieve, approved November 15, 1992.

ASTM D 3017-88, Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth), approved May 27, 1988.

ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.

ASTM D 2487-93, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993.

ASTM E 1527-93, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, approved March 15, 1993. Vol. 11.04.

ASTM E 1739-95, Standard Guide for Risk-Based Corrective Action Applied at Petroleum Release Sites, approved September 10, 1995.

Barnes, Donald G. and Dourson, Michael. (1988). Reference Dose (RfD): Description and Use in Health Risk Assessments. Regulatory

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TABLE I K(oc) Values for Ionizing Organics as a Function of pH (cm(3)/g or L/kg)

TABLE J Values to be Substituted for k[s] When Evaluating Inorganics as a Function of pH (cm(3)/[water]/g(soil))

TABLE K Parameter Estimates for Calculating Water-Filled Soil Porosity (Omega[w])

AUTHORITY: Implementing Sections 22.4, 22.12, Title XVI, and Title XVII and authorized by Sections 27, 57.14, and 58.5 of the Environmental Protection Act [415 ILCS 5/22.4, 22.12, 27, 57.14 and 58.5 and Title XVI and Title XVII].

SOURCE: Adopted in R97-12(A) at 21 Ill. Reg. 7942, effective July 1, 1997; amended in R97-12(B) at 21 Ill. Reg. 16391, effective December 8, 1997; amended in R97-12(C) at 22 Ill. Reg. 10043, effective **JUN 08 1998**.

Note: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets; SUM means the summation series or sigma function as used in mathematics; and the English words Alpha, Lambda and Omega are substituted for the Greek symbols because of computer program limitations.

SUBPART B: GENERAL

Section 742.210 Incorporations by Reference

a) The Board incorporates the following material by reference:

ASTM. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, (215) 299-5400

ASTM D 2974-87, Standard Test Methods for Moisture, Ash and Organic Matter of Peat and Other Organic Soils, approved May 29, 1987 (reapproved 1995).

ASTM D 2488-93, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993.

ASTM D 1556-90, Standard Test Method for Density and Unit Weight of Soil in Place by the Sand-Cone Method, approved June 29, 1990.

ASTM D 2167-94, Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method, approved March 15, 1994.

ASTM D 2922-91, Standard Test Methods for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth), approved December 23, 1991.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Toxicology and Pharmacology. 8, 471-486.

GPO. Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20401, (202) 783-3238.

USEPA Guidelines for Carcinogenic Risk Assessment, 51 Fed. Reg. 33992-34003 (September 24, 1986).

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," 4 USEPA Publication number SW-846 (Third Edition, Final Update III, December 1996 November-1996), as amended by Updates I, II, and III, and III (Document No. 955-001-00000-1)(contact USEPA, Office of Solid Waste, for Update III #A).

"Methods for the Determination of Organic Compounds in Drinking Water", EPA Publication No. EPA/600/4-88/039 (December 1988 (Revised July 1991)).

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement II", EPA Publication No. EPA/600/R-92/129 (August 1992).

"Methods for the Determination of Organic Compounds in Drinking Water, Supplement III", EPA Publication No. EPA/600/R-95/131 (August 1995).

IRIS. Integrated Risk Information System, National Center for Environmental Assessment, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, MS-190, Cincinnati, OH 45268, (513) 569-7254.

"Reference Dose (RfD): Description and Use in Health Risk Assessments", Background Document 1A (March 15, 1993).

"EPA Approach for Assessing the Risks Associated with Chronic Exposures to Carcinogens", Background Document 2 (January 17, 1992).

Nelson, D.W., and L.E. Sommers. 1982. Total carbon, organic carbon, and organic matter. In: A.L. Page (ed.), Methods of Soil Analysis. Part 2. Chemical and Microbiological Properties. 2nd Edition, pp. 539-579, American Society of Agronomy. Madison, WI.

NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600.

"Dermal Exposure Assessment: Principles and Applications", EPA Publication No. EPA/600/8-91/011B (January 1992).

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Exposure Factors Handbook", EPA Publication No. EPA/600/8-89/043 (July 1989).

"Risk Assessment Guidance for Superfund, Vol. I; Human Health Evaluation Manual, Supplemental Guidance: Standard Default Exposure Factors", OSWER Directive 9285.6-03 (March 1991).

"Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites", EPA Publication No. EPA/600/8-85/002 (February 1985), PB 85-192219.

"Risk Assessment Guidance for Superfund, Volume I; Human Health Evaluation Manual (Part A)", Interim Final, EPA Publication No. EPA/540/1-89/002 (December 1989).

"Risk Assessment Guidance for Superfund, Volume I; Human Health Evaluation Manual, Supplemental Guidance, Dermal Risk Assessment Interim Guidance", Draft (August 18, 1992).

"Soil Screening Guidance: Technical Background Document", EPA Publication No. EPA/540/R-95/128, PB96-963502 (May 1996).

"Soil Screening Guidance: User's Guide", EPA Publication No. EPA/540/R-96/018, PB96-963505 (April 1996).

Superfund Exposure Assessment Manual", EPA Publication No. EPA/540/1-88/001 (April 1988).

RCRA Facility Investigation Guidance, Interim Final, developed by USEPA (EPA 530/SW-89-031), 4 volumes, May 1989.

b) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202)783-3238:

40 CFR 761.120 (1993).

c) This Section incorporates no later editions or amendments.

(Source: Amended at 22 Ill. Reg. 10043, effective JUN 08 1998)

SUBPART C: EXPOSURE ROUTE EVALUATIONS

Section 742.310 Inhalation Exposure Route

The inhalation exposure route may be excluded from consideration if:

- The requirements of Sections 742.300 and 742.305 are met; and
- An institutional control, in accordance with Subpart J, is in place that meets the following requirements:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Either:

A) The concentration of any contaminant of concern within ten feet of the land surface or within ten feet of any man-made pathway shall not exceed the Tier 1 remediation objective under Subpart E for the inhalation exposure route; or

B) An engineered barrier, as set forth in Subpart K and approved by the Agency, is in place; and

2) Requires safety precautions for the construction worker if the Tier 1 construction worker remediation objectives are exceeded.

(Source: Amended at 22 Ill. Reg. 10847, effective
JUN 08 1998)

SUBPART I: TIER 3 EVALUATION

Section 742.900 Tier 3 Evaluation Overview

- a) Tier 3 sets forth a flexible framework to develop remediation objectives outside of the requirements of Tiers 1 and 2. Although Tier 1 and Tier 2 evaluations are not prerequisites to conduct Tier 3 evaluations, data from Tier 1 and Tier 2 can assist in developing remediation objectives under a Tier 3 evaluation.
- b) The level of detail required to adequately characterize a site depends on the particular use of Tier 3. Tier 3 can require additional investigative efforts beyond those described in Tier 2 to characterize the physical setting of the site. However, in situations where remedial efforts have simply reached a physical obstruction additional investigation may not be necessary for a Tier 3 submittal.
- c) Situations that can be considered for a Tier 3 evaluation include, but are not limited to:
 - 1) Modification of parameters not allowed under Tier 2;
 - 2) Use of models different from those used in Tier 2;
 - 3) Use of additional site data to improve or confirm predictions of exposed receptors to contaminants of concern;
 - 4) Analysis of site-specific risks using formal risk assessment, probabilistic data analysis, and sophisticated fate and transport models (e.g., requesting a target hazard quotient greater than 1 or a target cancer risk greater than 1 in 1,000,000);
 - 5) Requests for site-specific remediation objectives because an assessment indicates further remediation is not practical;
 - 6) Incomplete human exposure pathway(s) not excluded under Subpart C;
 - 7) Use of toxicological-specific information not available from the sources listed in Tier 2;
 - 8) Land uses which are substantially different from the assumed residential or industrial/commercial property uses of a site (e.g., a site will be used for recreation in the future and cannot be evaluated in Tiers 1 or 2); and

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

9) Requests for site-specific remediation objectives which exceed Tier 1 groundwater remediation objectives so long as the following is demonstrated:

A) To the extent practical, the exceedance of the groundwater quality standard has been minimized and beneficial use appropriate to the groundwater that was impacted has been returned; and

B) Any threat to human health or the environment has been minimized. (Section 58.5(D)(4)(A) of the Act)

d) For requests of a target cancer risk ranging between 1 in 1,000,000 and 1 in 10,000 at the point of human exposure or a target hazard quotient greater than 1 at the point of human exposure, the requirements of Section 742.915 shall be followed. Requests for a target cancer risk exceeding 1 in 10,000 at the point of human exposure are not allowed.

e) Requests for approval of a Tier 3 evaluation must be submitted to the Agency for review under the specific program under which remediation is performed. When reviewing a submittal under Tier 3, the Agency shall consider whether the interpretations and conclusions reached are supported by the information gathered. (Section 58.7(e)(1) of the Act) The Agency shall approve a Tier 3 evaluation if the person submits the information required under this part and establishes through such information that public health is protected and that specified risks to human health and the environment have been minimized.

(Source: Amended at 22 Ill. Reg. 10847, effective
JUN 08 1998)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX A General

Section 742.TABLE H Chemicals Whose Tier 1 Class I Groundwater Remediation Objective Exceeds the 1 in 1,000,000 Cancer Risk Concentration

Chemical	Class I		ADL (mg/l)
	Groundwater Remediation Objective (mg/l)	1 in 1,000,000 Cancer Risk Concentration (mg/l)	
Aldrin	0.00004	0.0000052	0.00004
Benzo(a)pyrene	0.0002	0.00001205	0.00023
Bis(2-chloroethyl)ether	0.01	0.0000773	0.01
Bis(2-ethylhexyl)phthalate	0.006	0.000361	0.00037
Carbon Tetrachloride	0.005	0.000663	0.0003
Chlordane	0.002	0.0000663	0.00014
Dibenzo(a,h)anthracene	0.0003	0.00001205	0.0003
1,2-Dibromo-3-chloropropane	0.0002	0.0000513	0.0002
1,2-Dibromoethane	0.00005	0.000001064	0.00005
3,3'-Dichlorobenzidine	0.02	0.0001900	0.02
1,2-Dichloroethane	0.005	0.0000944	0.00003
Dieldrin	0.00002	0.00000532	0.00002
Heptachlor	0.0004	0.00001900	0.00003
Heptachlor epoxide	0.0002	0.00000944	0.00032
Hexachlorobenzene	0.00006	0.00000532	0.00006
alpha-HCH	0.00003	0.00001406	0.00003
Tetrachloroethylene	0.005	0.0001607	0.00001
Toxaphene	0.003	0.0000773	0.00086
Vinyl chloride	0.002	0.00004515	0.00006

Ionizable Organics

N-Nitrosodiphenylamine	0.01	0.0007	0.01
N-Nitrosodi-n-propylamine	0.01	0.00001205	0.01
Pentachlorophenol	0.001	0.000713	0.001
2,4,6-Trichlorophenol	0.0064	0.003	0.0064

Inorganics

Arsenic	0.05	0.0000572	0.001
Beryllium	0.004	0.00002003	0.004
(Source: Amended at 22 Ill. Reg. 10843, effective JUN 08 1998)			

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX B Tier 1 Tables and Illustrations

Section 742.TABLE C pH Specific Soil Remediation Objectives for Inorganics and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route (Class I Groundwater)

Chemical (totals) (mg/kg)	pH 4.5 to 4.74	pH 4.75 to 5.24	pH 5.25 to 5.74	pH 5.75 to 6.24	pH 6.25 to 6.64	pH 6.65 to 6.89	pH 6.9 to 7.24	pH 7.25 to 7.74	pH 7.75 to 8.0
Inorganics									
Antimony	5	5	5	5	5	5	5	5	5
Arsenic	25	26	27	28	29	29	29	30	31
Barium	260	490	850	1,200	1,500	1,600	1,700	1,800	2,100
Beryllium	1.1	2.1	3.4	6.6	22	63	140	1,000	8,000
Cadmium	1.0	1.7	2.7	3.7	5.2	7.5	11	59	430
Chromium (+6)	70	62	54	46	40	38	36	32	28
Copper	330	580	2,100	11,000	59,000	130,000	200,000	330,000	330,000
Cyanide	40	40	40	40	40	40	40	40	40
Mercury	0.01	0.01*	0.03	0.15	0.89	2.1	3.3	6.4	8.0
Nickel	20	36	56	76	100	130	180	700	3,800
Selenium	24	17	12	8.8	6.3	5.2	4.5	3.3	2.4
Silver	0.24	0.33	0.62	1.5	4.4	8.5	13	39	110

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 10862 effective
JUN 08 1988)

POLLUTION CONTROL BOARD
NOTICE OF ADOPTED AMENDMENTS

Chemical (total) (mg/L)	pH 4.5 to 4.74	pH 4.75 to 5.24	pH 5.25 to 5.74	pH 5.75 to 6.24	pH 6.25 to 6.64	pH 6.65 to 6.89	pH 6.9 to 7.24	pH 7.25 to 7.74	pH 7.75 to 8.0
Thallium	1.6	1.8	2.0	2.4	2.6	2.8	3.0	3.4	3.8
Vanadium	980	980	980	980	980	980	980	980	980
Zinc	1,000	1,800	2,600	3,600	5,100	6,200	7,500	16,000	53,000
Organics									
Benzoic Acid	440	420	410	400	400	400	400	400	400
2-Chlorophenol	4.0	4.0	4.0	4.0	3.9	3.9	3.9	3.6	3.1
2,4-Dichlorophenol	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.86	0.69
Dinoseb	8.4	4.5	1.9	0.82	0.43	0.34	0.31	0.27	0.25
Pentachlorophenol	0.54	0.32	0.15	0.07	0.04	0.03	0.02	0.02	0.02
2,4,5-TP (Silvex)	26	16	12	11	11	11	11	11	11
2,4,5-Trichlorophenol	400	390	390	370	320	270	230	130	64
2,4,6-Trichlorophenol	0.37	0.36	0.34	0.26	0.20	0.15	0.13	0.09	0.07

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742. TABLE D pH Specific Soil Remediation Objectives for Inorganics and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route (Class II Groundwater)

Chemical (totals) (mg/kg)	pH 4.5 to 4.74	pH 4.75 to 5.24	pH 5.25 to 5.74	pH 5.75 to 6.24	pH 6.25 to 6.64	pH 6.65 to 6.89	pH 6.9 to 7.24	pH 7.25 to 7.74	pH 7.75 to 8.0
Inorganics									
Antimony	20	20	20	20	20	20	20	20	20
Arsenic	100	100	110	110	120	120	120	120	120
Barium	260	490	850	1,200	1,500	1,600	1,700	1,800	2,100
Beryllium	140	260	420	820	2,800	7,900	17,000	130,000	1,000,000
Cadmium	10	17	27	37	52	75	110	590	4,300
Chromium (+6)	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data	No Data
Copper	330	580	2,100	11,000	59,000	130,000	200,000	330,000	330,000
Cyanide	120	120	120	120	120	120	120	120	120
Mercury	0.05	0.06	0.14	0.75	4.4	10	16	32	40
Nickel	400	730	1,100	1,500	2,000	2,600	3,500	14,000	76,000
Selenium	24	17	12	8.8	6.3	5.2	4.5	3.3	2.4
Thallium	16	18	20	24	26	28	30	34	38
Zinc	2,000	3,600	5,200	7,200	10,000	12,000	15,000	32,000	110,000

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Chemical (totals) (mg/kg)	pH 4.5 to 4.74	pH 4.75 to 5.24	pH 5.25 to 5.74	pH 5.75 to 6.24	pH 6.25 to 6.64	pH 6.65 to 6.89	pH 6.9 to 7.24	pH 7.25 to 7.74	pH 7.75 to 8.0
Organics									
Benzoic Acid	440	420	410	400	400	400	400	400	400
2-Chlorophenol	20	20	20	20	20	20	19	3.6	3.1
2,4-Dichlorophenol	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.86	0.69
Dinoseb	84	45	19	8.2	4.3	3.4	3.1	2.7	2.5
Pentachlorophenol	2.7	1.6	0.75	0.33	0.18	0.15	0.12	0.11	0.10
2,4,5-TP (Silvex)	130	79	62	57	55	55	55	55	55
2,4,5-Trichlorophenol	2,000	2,000	1,900	1,800	1,600	1,400	1,200	640	64
2,4,6-Trichlorophenol	0.22	0.36	0.44	0.26	0.20	0.15	0.13	0.09	0.07
	1.9	1.8	1.7	1.4	1.0	0.77			

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 10847, effective

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 742.APPENDIX C Tier 2 Tables and Illustrations

Section 742.TABLE I K[oc] Values for Ionizing Organics as a Function of pH
(cm(3)/g or L/kg)

pH	Benzoic Acid	2-Chloro-phenol	2,4-Dichloro-phenol	Penachloro-phenol	2,4,5-Trichloro-phenol	2,4,6-Trichloro-phenol	Dinoseb	2,3,5-TP (Silvex)
4.5	1.07E+01	3.98E+02	1.59E+02	1.34E+04	2.37E+03	1.06E+03	3.00E+04	1.28E+04
4.6	9.16E+00	3.98E+02	1.59E+02	1.24E+04	2.37E+03	1.05E+03	2.71E+04	1.13E+04
4.7	7.79E+00	3.98E+02	1.59E+02	1.13E+04	2.37E+03	1.05E+03	2.41E+04	1.01E+04
4.8	6.58E+00	3.98E+02	1.59E+02	1.02E+04	2.37E+03	1.05E+03	2.12E+04	9.16E+03
4.9	5.54E+00	3.98E+02	1.59E+02	9.05E+03	2.37E+03	1.04E+03	1.85E+04	8.40E+03
5.0	4.64E+00	3.98E+02	1.59E+02	7.96E+03	2.36E+03	1.03E+03	1.59E+04	7.76E+03
5.1	3.88E+00	3.98E+02	1.59E+02	6.93E+03	2.36E+03	1.02E+03	1.36E+04	7.30E+03
5.2	3.25E+00	3.98E+02	1.59E+02	5.97E+03	2.35E+03	1.01E+03	1.15E+04	6.91E+03
5.3	2.72E+00	3.98E+02	1.59E+02	5.10E+03	2.34E+03	9.99E+02	9.66E+03	6.64E+03
5.4	2.29E+00	3.98E+02	1.58E+02	4.32E+03	2.33E+03	9.82E+02	8.10E+03	6.36E+03
5.5	1.94E+00	3.97E+02	1.58E+02	3.65E+03	2.32E+03	9.62E+02	6.77E+03	6.16E+03
5.6	1.65E+00	3.97E+02	1.58E+02	3.07E+03	2.31E+03	9.38E+02	5.65E+03	6.00E+03
5.7	1.42E+00	3.97E+02	1.58E+02	2.58E+03	2.29E+03	9.10E+02	4.73E+03	5.88E+03
5.8	1.24E+00	3.97E+02	1.58E+02	2.18E+03	2.27E+03	8.77E+02	3.97E+03	5.78E+03
5.9	1.09E+00	3.97E+02	1.57E+02	1.84E+03	2.24E+03	8.39E+02	3.35E+03	5.70E+03

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

pH	Benzoic Acid	2-Chloro-phenol	2,4-Dichloro-phenol	Pentachloro-phenol	2,4,5-Trichloro-phenol	2,4,6-Trichloro-phenol	Dinoseb	2,3,5-TP (Silvex)
6.0	9.69E-01	3.96E+02	1.57E+02	1.56E+03	2.21E+03	7.96E+02	2.84E+03	5.64E+03
6.1	8.75E-01	3.96E+02	1.57E+02	1.33E+03	2.17E+03	7.48E+02	2.43E+03	5.59E+03
6.2	7.99E-01	3.96E+02	1.56E+02	1.15E+03	2.12E+03	6.97E+02	2.10E+03	5.55E+03
6.3	7.36E-01	3.95E+02	1.55E+02	9.98E+02	2.06E+03	6.44E+02	1.83E+03	5.52E+03
6.4	6.89E-01	3.94E+02	1.54E+02	8.77E+02	1.99E+03	5.89E+02	1.62E+03	5.50E+03
6.5	6.51E-01	3.93E+02	1.53E+02	7.81E+02	1.91E+03	5.33E+02	1.45E+03	5.48E+03
6.6	6.20E-01	3.92E+02	1.52E+02	7.03E+02	1.82E+03	4.80E+02	1.32E+03	5.46E+03
6.7	5.95E-01	3.90E+02	1.50E+02	6.40E+02	1.71E+03	4.29E+02	1.21E+03	5.45E+03
6.8	5.76E-01	3.88E+02	1.47E+02	5.92E+02	1.60E+03	3.81E+02	1.12E+03	5.44E+03
6.9	5.60E-01	3.86E+02	1.45E+02	5.52E+02	1.47E+03	3.38E+02	1.05E+03	5.43E+03
7.0	5.47E-01	3.83E+02	1.41E+02	5.21E+02	1.34E+03	3.00E+02	9.96E+02	5.43E+03
7.1	5.38E-01	3.79E+02	1.38E+02	4.96E+02	1.21E+03	2.67E+02	9.52E+02	5.42E+03
7.2	5.32E-01	3.75E+02	1.33E+02	4.76E+02	1.07E+03	2.39E+02	9.18E+02	5.42E+03
7.3	5.29E-01	3.69E+02	1.28E+02	4.61E+02	9.43E+02	2.15E+02	8.90E+02	5.42E+03
7.4	5.19E-01	3.62E+02	1.21E+02	4.47E+02	8.19E+02	1.95E+02	8.68E+02	5.41E+03
7.5	5.16E-01	3.54E+02	1.14E+02	4.37E+02	7.03E+02	1.78E+02	8.50E+02	5.41E+03
7.6	5.13E-01	3.44E+02	1.07E+02	4.29E+02	5.99E+02	1.64E+02	8.36E+02	5.41E+03

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

pH	Benzoic Acid	2-Chloro-phenol	2,4-Dichloro-phenol	Pentachloro-phenol	2,4,5-Trichloro-phenol	2,4,6-Trichloro-phenol	Dinoseb	2,3,5-TP (Silvex)
7.7	5.09E-01	3.33E+02	9.84E+01	4.23E+02	5.07E+02	1.53E+02	8.25E+02	5.41E+03
7.8	5.06E-01	3.19E+02	8.97E+01	4.18E+02	4.26E+02	1.44E+02	8.17E+02	5.41E+03
7.9	5.06E-01	3.04E+02	8.07E+01	4.14E+02	3.57E+02	1.37E+02	8.10E+02	5.41E+03
8.0	5.06E-01	2.86E+02	7.17E+01	4.10E+02	2.98E+02	1.31E+02	8.04E+02	5.41E+03

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 22 Ill. Reg. 10843, effective JUN 8 1998)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

1) Heading of the Part: Control of Tuberculosis Code

2) Code Citation: 77 Ill. Adm. Code 696

3) Section Numbers:
 696.100 New Section
 696.110 New Section
 696.130 New Section
 696.140 New Section
 696.150 New Section
 696.160 New Section
 696.170 New Section
 696.180 New Section
 696.190 New Section
 696.200 New Section
 696.210 New Section
 696.Appendix A New Section
 696.Appendix B New Section
 696.Appendix C New Section

4) Statutory Authority: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

5) Effective Date of Amendments: June 5, 1998

6) Does this Rulemaking Contain an Automatic Repeal Date? No

7) Does this Rulemaking Contain any Incorporation by Reference? Yes

8) Date Filed in Agency's Principal Office: June 5, 1998

9) Date Notice of Proposed Amendments was Published in the Illinois Register: 21 Ill. Reg. 6716 - June 6, 1998

10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No

11) Difference Between Proposal and Final Version:

1. In Section 696.100 the definition of "Close Contacts" was revised to read as follows: "Close Contacts" means those sharing the same household or other enclosed environments of persons known or suspected to have TB."
2. In Section 696.100 the definition of "High-Risk for Nonadherence to a Prescribed Treatment Regimen" was modified by the addition of, "the following categories of people who should be screened for TB infection

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

because of an" before "an increased probability of becoming infected with TB..."

3. In Section 696.100 in the definition of "High Risk Groups" the third paragraph has been revised to read as follows:
persons who have medical risk factors known to increase the risk for disease if infection occurs. Medical risk factors means the following conditions: infection with HIV/AIDS; diabetes mellitus; conditions requiring prolonged high-dose corticosteroid therapy and other immunosuppressive therapy (including bone marrow and organ transplantation); chronic renal failure; some hematologic disorders (e.g., leukemias and lymphomas); other specific malignancies (carcinoma of the head or neck); body weight of 10% or more below ideal body weight; silicosis; gastrectomy; jejunoileal bypass; abnormal chest radiographs showing fibrotic lesions consistent with old healed TB; and abnormal chest radiographs showing parenchymal lung scarring in persons with a positive skin test who have not previously received TB treatment or preventive therapy.
4. In Section 696.100 the definition of "High Risk Groups" has been revised, in part, to read:
Foreign born persons, including children, who have arrived within the past 5 years from countries that have a high TB incidence or prevalence

groups defined locally as high-risk (e.g., some medically underserved low-income populations and some racial or ethnic minority populations);

Infants, children and adolescents exposed to adults in high-risk categories.
5. In Section 696.100 the definitions of "Isolation" and "Isolation Rooms" have been added as follows:

"Isolation" means the separation of a person with suspected or confirmed tuberculosis disease from other persons using universally-accepted techniques that effectively prevent transmission of M. tuberculosis during that person's period of communicability.

"Isolation Rooms" means rooms with special characteristics, including negative-pressure ventilation, to prevent the spread of droplet nuclei expelled by a TB patient.
6. In Section 696.100 the definition of "Suspected Case" has been revised to read as follows:
"Suspected Case" means an occurrence that is being considered as TB disease while diagnostic procedures are being completed, whether or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

not treatment has been started.

7. In Section 696.100 the definition of "Volunteer" has been revised by deleting,
"Designation of volunteer status may be defined by the local TB control authority."
8. In Section 696.140(a) the following was added after "Screening for TB Infection."
Persons in high-risk groups should be screened for tuberculosis. Local health department clients who are in high-risk groups should be screened and records maintained of Mantoux skin test results. These screening requirements can be modified or waived in accordance with Appendix B of this Part. In addition:
9. Section 696.140(a)(3) has been revised to read as follows:
Employees, Volunteers and Clients of Other Healthcare Settings. Other healthcare settings should conduct screening programs based upon a risk assessment performed in cooperation with the local TB control authority. Screening programs should be conducted in accordance with the following incorporated publications: Guidelines for Healthcare Facilities and Screening High-Risk Populations.
10. New Section 696.140(a)(5) has been added as follows:
5) Day Care Center Employees and Volunteers. Day care center employees and volunteers shall obtain the first Mantoux skin test of a two-step test within 7 days after being employed. Routine periodic screening of employees and volunteers should be determined by risk assessment performed in cooperation with the local TB control authority.
11. Section 696.150(a)(1), (2), (3), and (4) have been revised to read as follows:
The following persons with positive skin tests should be considered for preventive therapy regardless of age:

A) Persons with HIV/AIDS and persons with risk factors for HIV/AIDS whose HIV infection status is unknown;

B) Close contacts of persons with newly diagnosed infectious tuberculosis;

C) Recent tuberculin skin test converters (equal to or greater than a 10 mm increase within a two-year period for persons younger than 35 years of age; equal to or greater than a 15 mm increase for persons 35 years of age or older);

D) All infants and children younger than 4 years of age with a skin

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

12. A new Appendix C has been added as follows:

696.Appendix C Summary of the Interpretation of Tuberculin Skin Test Results

1. An induration equal to or greater than 5 mm is classified as positive in the following:

Persons who have had recent close contact with persons who have active TB.

Persons who have been diagnosed with HIV infection or who have risk factors for HIV infection but whose HIV status is unknown.

Persons who have fibrotic chest radiographs consistent with healed TB.

2. An induration equal to or greater than 10 mm is classified as positive in all persons who do not meet any of the above criteria, but who belong to one or more of the following groups having high risk for TB:

Injecting-drug users known to be HIV seronegative;

Persons who have other medical conditions that have been reported to increase the risk for progressing from latent TB infection to active TB disease. These medical conditions include diabetes mellitus, conditions requiring prolonged high-dose corticosteroid therapy and other immunosuppressive therapy (including bone marrow and organ transplantation), chronic renal failure, some hematologic disorders (e.g., leukemia and lymphomas), other specific malignancies (e.g., carcinoma of the head or neck), weight loss equal to or greater than 10% below ideal body weight, silicosis, gastrectomy, jejunioileal, bypass;

Residents and employees of high-risk congregate settings; prisons and jails, nursing homes and other long-term residential facilities for the elderly, health-care facilities (including some residential mental health facilities), and homeless shelters;

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

test reaction equal to or greater than 10 mm;

E) Persons with medical risk factors that may increase the risk of tuberculosis (e.g., diabetes mellitus; prolonged therapy with adrenocorticosteroids, immunosuppressive therapy, some hematologic and reticuloendothelial diseases such as leukemia or Hodgkin's disease), injection drug users known to be HIV-seronegative, end-stage renal disease, and clinical situations associated with substantial rapid weight loss or chronic undernutrition;

F) Tuberculin-positive adults with abnormal chest radiographs that show fibrotic lesions likely representative of old healed tuberculosis adults diagnosed with silicosis. These persons should usually receive 4-month multiple-drug chemotherapy. Alternatively such persons may receive 12 months of isoniazid preventive therapy.

- 2) In the absence of risk factors listed in subsections (a)(1)(A) through (E) of this Section, the following persons younger than 35 years of age with positive skin tests should be considered for preventive therapy.

A) Foreign-born persons from high-prevalence countries including those in Latin America, Asia, and Africa;

B) Medically underserved low-income populations, including high-risk racial or ethnic minority populations, especially blacks, Hispanics and Native Americans;

C) Residents of high-risk congregate settings; and

D) Persons with no risk factors.

- 3) The following persons with negative skin tests should be considered for preventive therapy:

A) Children who have been close contacts to infectious cases within the last three months. If the skin test remains negative after 12 weeks and there has been no continued exposure, preventive therapy need not be continued; and

B) Anergic HIV-infected adults.

- 4) Positive Skin Test Reaction in Persons in High-Risk Groups. All persons in high-risk groups should be considered for preventive therapy. (See Appendix C and the incorporated publications, Screening High-Risk Populations and Treatment of TB and TB Infection.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Foreign-born persons who have recently arrived (i.e., within the last 5 years) from countries having a high prevalence or incidence of TB;

Some medically underserved, low-income populations, including migrant farm workers and homeless persons;

High-risk racial or ethnic minority populations, as defined locally; and

Children less than 4 years of age, or infants, children, and adolescents exposed to adults in high risk categories.

3. An induration equal to or greater than 15 mm is classified as positive in persons who do not meet any of the above criteria.

12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreement letter issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee on Administrative Rules have been made.

13) Will the Rulemaking Replace an Emergency Rule Currently in Effect? No

14) Are there any other Amendments Pending on this Part? No

15) Summary and Purpose of Rulemaking: These rules include current methods of preventing and controlling the spread of TB, and procedures for enforcement of TB prevention and control requirements. Specifically, the rules address screening for TB infection and disease, management of persons with TB infection, diagnosis and management of persons with suspected or confirmed TB disease, reporting, and enforcement procedures. The responsibilities of health professionals and patients to whom the rules are applicable are also included.

16) Information and Questions Regarding this Adopted Rulemaking Should be Directed to:

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Illinois Department of Public Health
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Springfield, Illinois 62761
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(E-mail: rules@idph.state.il.us).

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER K: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 696

CONTROL OF TUBERCULOSIS CODE

SUBPART A: GENERAL PROVISIONS

Section
696.100
696.110

Definition of Terms
Incorporated Materials

SUBPART B: TUBERCULOSIS PREVENTION AND CONTROL MEASURES

Section
696.130
696.140
696.150
696.160
696.170

Responsibilities of High-Risk Congregate Settings and Programs
Providing Alcohol and Drug Treatment
Screening for Tuberculosis Infection and Disease
Management of Persons with Tuberculosis Infection
Diagnosis and Management of Persons with Suspected and Confirmed Tuberculosis Disease
Reporting

SUBPART C: ENFORCEMENT OF TUBERCULOSIS PREVENTION AND CONTROL MEASURES

Section
696.180
696.190
696.200
696.210
696.APPENDIX A
696.APPENDIX B
696.APPENDIX C

Role of the Department in Enforcement
Role of the Local Tuberculosis Control Authority in Enforcement
Types of Directives
Potential Recipients of Directives
696.APPENDIX A Mantoux Skin Testing Procedures
696.APPENDIX B Waivers for Mantoux Skin Testing Requirements
696.APPENDIX C Summary of the Interpretation of Tuberculin Skin Test Results

AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

SOURCE: Adopted at 22 Ill. Reg. 10370, effective JUN 05 1998.

effective

SUBPART A: GENERAL PROVISIONS

Section 696.100 Definition of Terms

For the purpose of this Part, the following shall be the accepted definitions

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

"Diagnostic Evaluation" means a process used to diagnose TB disease which includes a physical examination, medical history, Mantoux skin test, chest radiograph and bacteriologic examinations.

"Directly Observed Therapy (DOT)" means a process by which a trained healthcare worker or other designated trained person watches the patient swallow each dose of TB medication. Family members are generally not recommended to provide DOT.

"Directly Observed Preventive Therapy (DOPT)" means a process by which a trained healthcare worker or other designated trained person watches the patient swallow each dose of preventive TB medication. Family members are generally not recommended to provide DOPT.

"Employee" means a full-time, part-time or temporary worker who receives compensation. (See definition of "Volunteer".)

"Facility" means any organization or unit of an organization.

"Healthcare Facility" means a hospital, medical ward in a correctional facility, nursing home or hospice. (See definition of "Other Healthcare Setting".)

"Healthcare Worker" means an employee or volunteer in a healthcare facility who has the potential for exposure to *M. tuberculosis*. Healthcare workers may include, but are not limited to, physicians, nurses, aides, dental workers, technicians, workers in laboratories and morgues, emergency medical service personnel, part-time personnel, temporary staff (such as students) not employed by the healthcare facility, and persons who are not involved directly in patient care but who are potentially at risk for occupational exposure to *M. tuberculosis* (e.g., volunteers, or dietary, housekeeping, maintenance, clerical, and janitorial staff).

"High-Risk Congregate Setting" means, but is not limited to, detention centers, in-patient healthcare facilities, nursing homes and other long-term care facilities for the elderly, mental health facilities, licensed supportive residences for HIV-infected persons, shelters for the homeless, other long-term residential facilities and programs that treat persons who inject non-prescribed drugs or other substance users in locally identified high-risk groups (e.g., crack cocaine users).

Other long-term care facilities include facilities that care for the developmentally disabled, are designed for retirees or others, and that are considered high-risk congregate settings according to a risk assessment performed in cooperation with the local TB control authority.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

of the terms used herein:

"Anergy" means the absence of a reaction to skin test antigens, such as tuberculin (when the person is infected with the organism tested) because of immunosuppression. The absence of a reaction to the tuberculin skin test does not rule out the diagnosis of tuberculosis (TB) infection or disease. Anergy may be caused by many factors, such as HIV infection, overwhelming miliary or pulmonary TB, severe or febrile illness, measles or other viral infections, Hodgkin's disease, sarcoidosis, live virus vaccination, and the administration of corticosteroids or immunosuppressive drugs.

"Bacteriologic Examinations" means tests done in a mycobacteriology laboratory to diagnose TB disease, including smears for acid-fast bacilli (AFB), cultures and other tests for *Mycobacterium* (*M.*) *tuberculosis*, and drug susceptibility tests.

"BCG Vaccine" means a TB vaccine used in many parts of the world.

"Checklist of Signs and Symptoms of TB Disease" means a list that includes the following signs and symptoms: pulmonary - productive prolonged cough, chest pain, hemoptysis; generalized - fever, chills, night sweats, easy fatigability, loss of appetite and weight loss.

"Close Contacts" means those sharing the same household or other enclosed environments of persons known or suspected to have TB.

"Confirmed Case" means an occurrence of TB disease that is laboratory confirmed or, in the absence of laboratory confirmation, an occurrence that meets the clinical case definition.

Laboratory confirmation - Laboratory criteria for diagnosis includes isolation of *M. tuberculosis* from a clinical specimen; demonstration of *M. tuberculosis* from a clinical specimen by DNA probe or mycolic acid pattern on high-pressure liquid chromatography; or demonstration of acid-fast bacilli in a clinical specimen when a culture has not been or cannot be obtained.

Clinical case definition - A clinical case meets all the following criteria: a positive Mantoux tuberculin skin test (Mantoux skin test); other signs and symptoms compatible with TB, such as an abnormal, unstable (worsening or improving) chest radiograph, or clinical evidence of current disease; treatment with two or more anti-tuberculosis medications; and completed diagnostic evaluation.

"Department" means the Illinois Department of Public Health.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"High-Risk for Nonadherence to a Prescribed Treatment Regimen" means any person who has a history of treatment nonadherence; whose treatment has failed or disease has relapsed; who uses alcohol or controlled substances; who has mental, emotional, or physical impairments that interfere with the ability to self-administer medications; or who is a child or adolescent.

"High-Risk Groups" means the following categories of people who should be screened for TB infection because of an increased probability of becoming infected with TB, and/or who once infected have increased probability of progressing to TB disease:

close contacts;

persons who inject non-prescribed drugs or other substance users in locally identified high-risk groups (e.g., crack cocaine users);

persons who have medical risk factors known to increase the risk for disease if infection occurs. Medical risk factors means the following conditions: infection with HIV/AIDS; diabetes mellitus; conditions requiring prolonged high-dose corticosteroid therapy and other immunosuppressive therapy (including bone marrow and organ transplantation); chronic renal failure; some hematologic disorders (e.g., leukemias and lymphomas); other specific malignancies (carcinoma of the head or neck); body weight of 10% or more below ideal body weight; silicosis; gastrectomy; jejunioileal bypass; abnormal chest radiographs showing fibrotic lesions consistent with old healed TB; and abnormal chest radiographs showing parenchymal lung scarring in persons with a positive skin test who have not previously received TB treatment or preventive therapy;

clients, employees and volunteers of high-risk congregate settings;

healthcare workers who serve clients in high-risk groups;

foreign-born persons, including children, who have arrived within the past 5 years from countries that have a high TB incidence or prevalence;

groups defined locally as high-risk (e.g., some medically underserved low-income populations and some racial or ethnic minority populations);

infants, children and adolescents exposed to adults in high-risk categories.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

"Infection" means the condition in which organisms (e.g., *M. tuberculosis*) capable of causing disease enter the body and elicit a response from the host's immune defenses. TB infection may or may not progress to clinical disease.

"Infectious" means a person who has, or is suspected of having, pulmonary or laryngeal TB and who:

coughs, is undergoing cough-inducing or aerosol-generating procedures, or has sputum smears that contain AFB; and

is not receiving treatment, has just begun treatment, or has a poor clinical or bacteriologic response to treatment. A person on treatment for one month or less is considered to have just begun treatment. A poor clinical response to treatment can be suggested by a failure of signs and symptoms to improve after two months of treatment. A poor bacteriologic response to treatment can be suggested by a failure of AFB on smear to decrease after two weeks of treatment.

"Intermittent Therapy" means therapy administered either 2 or 3 times per week, rather than each day.

"Isolation" means the separation of a person with suspected or confirmed tuberculosis disease from other persons using universally-accepted techniques that effectively prevent transmission of *M. tuberculosis* during that person's period of communicability.

"Isolation Rooms" means rooms with special characteristics, including negative-pressure ventilation, to prevent the spread of droplet nuclei expelled by a TB patient.

"Likely to Become Infectious" means a person whose treatment has failed; whose disease has relapsed; who does not consistently adhere to or complete a prescribed treatment regimen; who has received inadequate treatment; or who has drug-resistant disease.

"Local TB Control Authority" means the agency at the local level recognized by the Department as having jurisdiction over the prevention and control of tuberculosis. The local TB control authority may be an autonomous TB board or a TB program within a local health department.

"Long-Term Inmate" means an inmate who will remain in custody for a period of 14 days or longer.

"Mantoux Tuberculin Skin Test or Mantoux Skin Test" means a method of skin testing that is performed by injecting 0.1 mL of purified protein

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

control measures.

"Preventive Therapy" means treatment of TB infection to prevent the progression to clinically active disease.

"Relapse" means the return of TB disease after a partial recovery from disease.

"Short-Term Inmate" means an inmate who remains in custody for less than 14 days, especially pretrial detainees likely to be released without supervision or placed in the community under court supervision.

"Suspected Case" means an occurrence that is being considered as TB disease while diagnostic procedures are being completed, whether or not treatment has been started.

"Treatment Failure" means TB disease in patients who do not respond to chemotherapy and whose disease worsens after having improved initially.

"Volunteer" means a person who, for a period of time, provides services of his or her own free will with no promise of compensation. (See definition of "Employee".)

Section 696.110 Incorporated Materials

- a) The following materials are incorporated by reference in this Part:
- 1) "Controlling TB in Correctional Facilities", U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333 (1995).
 - 2) "Core Curriculum on Tuberculosis, What the Clinician Should Know" (Core Curriculum), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333, (1994).
 - 3) "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Facilities, 1994" (Guidelines for Tuberculosis in Health-Care Facilities), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333 (Morbidity and Mortality Weekly Report (MMWR) 1994; 43 (No. RR-13)).
 - 4) "OSHA Instruction CPL106, February 9, 1996" (OSHA Instruction).
 - 5) "Prevention and Control of Tuberculosis in Correctional Facilities", U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333 (Morbidity and Mortality Weekly Report (MMWR) 1996;45(No. RR-8)).
 - 6) "The Role of BCG Vaccine in the Prevention and Control of

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

derivative (PPD) tuberculin containing 5 tuberculin units into the dermis of the forearm with a needle and syringe.

"Negative Cultures" means cultures that contain no detectable tubercle bacilli.

"Nonadherence" means not following the recommended course of treatment or therapy by not taking all the medications in the manner prescribed for the entire length of time.

"Not Infectious" means a person previously determined to be infectious who now meets the following criteria:

- received a treatment regimen for two or more weeks composed of multiple drugs to which the organisms are susceptible in accordance with the incorporated publication, Treatment of TB and TB Infection;
- has favorable clinical response to treatment; and
- has 3 consecutive negative sputum smear results from sputum collected on different days.

"OSHA" means the U.S. Department of Labor, Occupational Safety and Health Administration.

"Other Healthcare Setting" means an ambulatory care facility, emergency department, home healthcare setting, emergency medical services, medical and dental office or any location where medical care is provided. (See definition of "Healthcare Facility".)

"Past or Present Behavior that Indicates a Substantial Likelihood of Not Cooperating with Prevention and Control Measures" means, but is not limited to:

- refusal or failure to keep appointments for diagnosis or treatment;
- refusal or failure to consistently adhere to and complete a prescribed preventive therapy or disease treatment regimen;
- refusal or failure to participate in DOPT or DOT;
- disregard for isolation procedures;
- leaving the hospital against medical advice; or
- inability or unwillingness to voluntarily use prevention and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Tuberculosis in the United States" (The Role of BCG Vaccine), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333 (Morbidity and Mortality Weekly Report (MMWR) 1996;45(No. RR-4)).

- 7) "Screening for Tuberculosis and Tuberculosis Infection in High-risk Populations" (Screening High-risk Populations), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, Georgia 30333, HHS Publication No. (CDC) 95-8017 (1995).
- 8) "Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children" (Treatment of TB and TB Infection), American Thoracic Society, Medical Section of the American Lung Association, U.S. G.P.O.:1994-533-001:501.
- b) All incorporations by reference of guidelines of federal agencies and the standards of nationally recognized organizations refer to the guidelines and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

SUBPART B: TUBERCULOSIS PREVENTION AND CONTROL MEASURES

Section 696.130 Responsibilities of High-Risk Congregate Settings and Programs Providing Alcohol and Drug Treatment

- a) Written Plans. A written plan shall be developed that includes protocols for the screening and management of infection among employees, volunteers and clients; protocols for the screening, diagnosis and management of TB disease among employees, volunteers and clients; data collection; evaluation of data; reporting of persons with signs or symptoms of TB to the local TB control authority; and an employee and volunteer education program. All components of the plan shall reflect compliance with this Part. The plan shall include the: name of the person or persons responsible for the TB prevention and control program at each facility; procedures for the purpose of protecting employees, volunteers and clients from contracting tuberculosis; and a referral mechanism to ensure prevention of transmission and completion of treatment for clients with TB who leave the facility. The written plan shall be updated at least annually. (See the incorporated publications, Guidelines for Healthcare Facilities and the OSHA Instruction.)
- b) TB Prevention and Control Program. A program shall be executed in accordance with the written plan.
- c) Employee and Volunteer Education. Training about TB shall be provided or arranged. All employees and volunteers shall be trained upon hiring and periodically thereafter to ensure employee knowledge equivalent to the employee's work responsibilities and the level of risk in the facility. OSHA-regulated settings and programs shall comply with the incorporated publications, OSHA Instruction. (See the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

incorporated publications, Core Curriculum and Controlling TB in Correctional Facilities.)

- d) Collaboration. The settings and programs listed above shall consult with the local TB control authority, as necessary, to determine their respective responsibilities in the screening, diagnosis and management of TB infection and disease, reporting of disease, and the education of employees and volunteers.

- e) Records. Records shall be maintained on Mantoux skin test results; TB diagnostic evaluation results (including whether the tuberculosis was drug-resistant); other information about any persons exposed to tuberculosis; and the current written plan as required in subsection (a) of this Section. Individual and aggregate data should be analyzed periodically to identify the facility's level of risk and changes in the risk of TB transmission. Correctional facilities should maintain a retrievable aggregate record system in accordance with the incorporated publication, Prevention and Control of Tuberculosis in Correctional Facilities. All records required in this subsection shall be made available for inspection by the Department or the local TB control authority upon request.

Section 696.140 Screening for Tuberculosis Infection and Disease

The Mantoux skin test shall be used when screening persons for infection. (See Appendices A, B, and C of this Part.) Chest radiographs and bacteriologic examinations can be used when screening certain persons for disease. (See subsection (b)(2) of this Section.) Persons who have signs and symptoms of disease, a positive skin test or other positive screening test results shall have additional diagnostic tests as recommended in the incorporated publications Treatment of TB and TB Infection and Guidelines for Healthcare Facilities.

- a) Screening for TB Infection. Persons in high-risk groups should be screened for tuberculosis. Local health department clients who are in high-risk groups should be screened and records maintained of Mantoux skin test results. These screening requirements can be modified or waived in accordance with Appendix B of this Part. In addition:
 - 1) Close Contacts. Persons who are close contacts to suspected or confirmed cases of TB disease shall be tested with the Mantoux skin test to identify infection. Close contacts shall be retested 3 months after the last exposure if their reaction to the first skin test was negative. A high priority should be given to evaluating contacts who are children or contacts infected with HIV/AIDS.
 - 2) Employees, Volunteers and Clients of High-Risk Congregate Settings and Programs Providing Alcohol and Drug Treatment. Screening shall be done in accordance with this subsection, Appendices A, B, and C, and the following incorporated publications: Screening High-Risk Populations; Guidelines for Healthcare Facilities; Prevention and Control of Tuberculosis in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Correctional Facilities; and the OSHA Instruction.

A) All employees and volunteers in high-risk congregated settings and programs providing alcohol and drug treatment shall obtain a Mantoux skin test within 7 days after being employed. Employees and volunteers who are part of a routine, periodic screening program shall initially be screened by two-step testing. Routine, periodic screening of employees and volunteers should be determined by a risk assessment performed in cooperation with the local TB control authority. Persons who are not part of a routine, periodic screening program may be screened by a single Mantoux skin test.

B) All clients in high-risk congregated settings and clients in high-risk groups in programs providing alcohol and drug treatment shall obtain a Mantoux skin test within 7 days after admission. All clients who are part of a routine, periodic screening program should be initially screened by two-step testing. Routine, periodic screening of clients should be determined by a risk assessment performed in cooperation with the local TB control authority. Persons who are not part of a routine, periodic screening program may be screened by a single Mantoux skin test. In addition:

i) Nursing home residents, persons who inject non-prescribed drugs and other substance users in locally identified high-risk groups (e.g., crack cocaine users) in treatment programs, and clients of programs providing methadone maintenance therapy shall be screened with the first Mantoux skin test of a two-step test within 7 days after admission.

ii) Routine, periodic screening of the homeless should be done when feasible. (See subsection (b) of this Section.)

iii) Long-term inmates in detention centers shall obtain a Mantoux skin test within 7 days after admission. Two-step testing should be done when feasible. Routine, periodic screening of long-term inmates should be done. Short-term inmates in detention centers should obtain a Mantoux skin test within 7 days after admission, when feasible. Regardless of skin test results, inmates who have HIV infection and those at risk for HIV infection but whose HIV status is unknown should have a chest radiograph as part of the initial screening. (See subsection (b) of this Section for requirements for screening short-term and long-term inmates for disease.) Inmates of detention centers shall be screened in accordance with the following incorporated publications: Prevention and Control of Tuberculosis

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

in Correctional Facilities and Screening High-Risk Populations.

3) Employees, Volunteers and Clients of Other Healthcare Settings. Other healthcare settings should conduct screening programs based upon a risk assessment performed in cooperation with the local TB control authority. Screening programs should be conducted in accordance with the following incorporated publications: Guidelines for Healthcare Facilities and Screening High-Risk Populations.

4) Employees, Volunteers and Students in a School (Pupil Attendance Center) or School District.

A) Initial skin testing of employees and volunteers in a school or a school district shall be performed by a Mantoux skin test within 7 days after beginning employment. This requirement can be modified or waived in accordance with Appendix B of this Part.

B) When a community, school, or school district has a higher than expected prevalence of TB infection, the local TB control authority or the Department may institute routine, periodic skin testing of school employees, volunteers and students. Any such testing program should take into consideration:

i) epidemiologic factors and currently accepted public health standards pertaining to the prevention and control of TB; and

ii) the identification and availability of necessary school, school district and local TB control authority resources and facilities.

5) Day Care Center Employees and Volunteers. Day care center employees and volunteers shall obtain the first Mantoux skin test of a two-step test within 7 days after being employed. Routine, periodic screening of employees and volunteers should be determined by a risk assessment performed in cooperation with the local TB control authority.

b) Screening for TB Disease.

1) Checklist of Signs and Symptoms. A checklist that includes but is not limited to pulmonary symptoms (productive prolonged cough, chest pain, hemoptysis) and generalized signs and symptoms (fever, chills, night sweats, easy fatigability, loss of appetite and weight loss) shall be used to screen for TB disease in the following circumstances:

A) Persons with a documented prior positive Mantoux skin test who are required to receive a skin test or skin tests routinely and periodically shall, instead of receiving a skin test, complete a signs and symptoms checklist. A checklist takes the place of a skin test for these persons. Repeat skin testing is not needed or required. Routine, periodic chest radiographs should not be done. Chest

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

radiographs do not take the place of a skin test or checklist.

- B) Clients admitted to high-risk congregate settings and programs providing alcohol and drug treatment shall be screened for current disease status with a signs and symptoms checklist in addition to meeting other screening requirements for infection.

- 2) Chest Radiography or Bacteriologic Examinations. The use of chest radiography or bacteriologic examinations should be considered in certain instances in addition to a signs and symptoms checklist.

- A) Chest radiography may be the best screening method in jails, homeless shelters, and single-room-occupancy facilities that house the homeless for more than one night. Also, inmates who either have HIV infection or are at risk for HIV infection, but whose HIV status is unknown, should receive a chest radiograph as part of the initial screening, regardless of skin test results.

- B) Screening for disease among the homeless may also include sputum smears and cultures.

Section 696.150 Management of Persons with Tuberculosis Infection

- a) Preventive Therapy. Before therapy is started, persons with a positive skin test reaction shall receive a diagnostic evaluation for TB disease. See Appendix C for information on how to interpret skin test results. If there is no evidence of disease, persons with TB infection should be considered for preventive therapy. Preventive therapy shall be conducted in accordance with the incorporated publication, Treatment of TB and TB Infection.

- 1) The following persons with positive skin tests should be considered for preventive therapy regardless of age:

- A) Persons with HIV/AIDS and persons with risk factors for HIV/AIDS whose HIV infection status is unknown;
- B) Close contacts of persons with newly diagnosed infectious tuberculosis;
- C) Recent tuberculin skin test converters (equal to or greater than a 10 mm increase within a two-year period for persons younger than 35 years of age; equal to or greater than a 15 mm increase for persons 35 years of age or older);
- D) All infants and children younger than 4 years of age with a skin test reaction equal to or greater than 10 mm;
- E) Persons with medical risk factors that may increase the risk of tuberculosis (e.g., diabetes mellitus, prolonged therapy with adrenocorticosteroids, immunosuppressive therapy, some hematologic and reticuloendothelial diseases such as leukemia or Hodgkin's disease), injection drug users known to be HIV-seronegative, end-stage renal disease, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

clinical situations associated with substantial rapid weight loss or chronic undernutrition;

- F) Tuberculin-positive adults with abnormal chest radiographs that show fibrotic lesions likely representative of old healed tuberculosis and adults diagnosed with silicosis. These persons should usually receive 4-month multiple-drug chemotherapy. Alternatively such persons may receive 12 months of isoniazid preventive therapy.

- 2) In the absence of risk factors listed in subsections (a)(1)(A) through (E) of this Section, the following persons younger than 35 years of age with positive skin tests should be considered for preventive therapy:

- A) Foreign-born persons from high-prevalence countries including those in Latin America, Asia, and Africa;
- B) Medically underserved low-income populations, including high-risk racial or ethnic minority populations, especially blacks, Hispanics and Native Americans;
- C) Residents of high-risk congregate settings; and
- D) Persons with no risk factors.

- 3) The following persons with negative skin tests should be considered for preventive therapy:

- A) Children who have been close contacts to infectious cases within the last three months. If the skin test remains negative after 12 weeks and there has been no continued exposure, preventive therapy need not be continued; and
- B) Anergic HIV-infected adults.

- 4) Positive Skin Test Reaction in Persons in High-Risk Groups. All persons in high-risk groups should be considered for preventive therapy. (See Appendix C and the incorporated publications, Screening High-Risk Populations and Treatment of TB and TB Infection.)

- b) BCG Vaccine and Preventive Therapy. A diagnosis of TB infection and the use of preventive therapy should be considered for any BCG-vaccinated person with a positive Mantoux skin test reaction. (See the incorporated publication, The Role of BCG Vaccine.)

- c) Directly Observed Preventive Therapy (DOT). In settings where DOT can be given by a responsible and trained employee or volunteer, twice-a-week DOT should be considered. DOT should especially be considered for persons who are at high-risk for TB disease, or at high-risk of nonadherence to preventive therapy.

- d) Monitoring for Adverse Reactions. At a minimum, patients should be seen monthly during therapy and evaluated for adverse drug reactions.

Section 696.160 Diagnosis and Management of Persons with Suspected or Confirmed Tuberculosis Disease

- a) Diagnostic Evaluation. The evaluation of persons with suspected or confirmed TB disease shall include but not be limited to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Medical History;
- 2) Physical Examination;
- 3) Mantoux Skin Test;
- 4) Chest Radiograph; and
- 5) Bacteriologic Examinations on Available Specimens (e.g., smears, cultures and other tests for *M. tuberculosis*, and drug susceptibility tests).

Agency note: TB is sometimes overlooked in the differential diagnosis of pulmonary conditions (e.g., pneumonia), especially in the elderly.

- 1) Clinical Management of Persons with Suspected or Confirmed TB Disease. If infectious TB disease is suspected, precautions shall be taken to prevent transmission in accordance with the incorporated publications: Guidelines for Healthcare Facilities and OSHA Instruction.

A) In settings that serve infectious TB patients, precautions that shall be implemented include early identification and isolation of patients with suspected or confirmed TB disease. Infection control measures shall be maintained until it is determined that the patient is not infectious.

- i) Precautions shall include the use of ventilation systems in TB isolation rooms to maintain negative pressure and to exhaust air in such a manner to prevent transmission of *M. tuberculosis*.
- ii) Personal respirators that meet the requirements in the incorporated publication, OSHA Instruction, shall be used by workers in areas (e.g., TB isolation rooms, rooms where cough inducing procedures are done) where exposure cannot be avoided or there is an increased risk of exposure. Patients may be masked with a surgical mask if they must leave the isolation room while they are infectious and coughing.
- iii) In in-patient settings, continuous isolation should be considered for patients with multiple drug-resistant TB.

B) Infectious TB patients may be confined to their homes in order to prevent transmission of disease. Personal respirators that meet the requirements in the incorporated publication, OSHA Instruction, shall be used by workers when in the homes of patients with infectious TB and when transporting infectious patients.

C) Once determined to be infectious, a person is considered infectious until medically determined to be not infectious and likely not to become infectious again, as evidenced by compliance with a multiple-drug treatment regimen to which the organisms are susceptible. When a consensus cannot be reached concerning the infectious or not infectious status of a suspected or confirmed case of TB, a final decision of infectiousness will be made only by the Department.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 2) Treatment of Suspected or Confirmed TB Disease. Suspected or confirmed TB disease shall be treated with multiple drugs in accordance with the incorporated publication, Treatment of TB and TB Infection.

Agency Note: TB disease in infants and children younger than four years of age and in immunosuppressed individuals (such as HIV/AIDS patients) is more likely to spread throughout the body and progress rapidly with severe consequences; prompt and vigorous treatment is appropriate as soon as TB is suspected.

A) Directly Observed Therapy (DOT). Treatment of all patients with TB should be conducted by DOT.

B) Monitoring for Response to Antituberculosis Chemotherapy. Persons with *M. tuberculosis* identified in sputum shall be monitored by sputum smears and cultures until conversion is documented. Drug susceptibility testing shall be done initially on culture positive specimens.

i) Sputum smears should be repeated until 3 consecutive negative sputum smear results are obtained from sputum collected on different days.

ii) Sputum cultures should be monitored at least monthly until negative cultures are obtained. Patients whose cultures have not become negative or whose symptoms do not resolve after two months of therapy shall be reevaluated for drug-resistant disease, as well as for failure to adhere to the regimen. For patients receiving self-administered therapy, the remainder of treatment should be directly observed.

iii) In patients with multiple drug-resistant disease, sputum cultures should be monitored monthly for the entire course of treatment.

C) Monitoring for Adverse Reactions. Adults treated for TB disease should have baseline tests to detect any abnormality that would complicate treatment or require a modified regimen. Baseline tests, except visual acuity, are unnecessary in children unless a complicating condition is known or clinically suspected. At a minimum, patients should be seen monthly during treatment and evaluated for adverse reactions. If symptoms suggesting drug toxicity occur, then appropriate laboratory testing should be performed to confirm or exclude such toxicity. (See the incorporated publication, Treatment of TB and TB Infection.)

c) Contact Investigation. Close contacts to suspected or confirmed cases of TB disease shall be tested with a Mantoux skin test to identify infection. Close contacts shall be retested 3 months after the last exposure if their reaction to the first skin test was negative. A high priority should be given to evaluating contacts who are children or contacts infected with HIV/AIDS. (See Section 696.150(a)(3) for information regarding preventive therapy.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 696.170 Reporting

Health professionals listed in subsection (a)(1) shall report suspected and confirmed cases of TB to the local TB control authority or, in the absence of a local TB control authority, to the TB Control Section of the Department. The local TB control authority shall report to the Department.

a) Reports to the Local TB Control Authority.

1) Health Professionals Required to Report. Reports shall be made by physicians, physician assistants, nurses, dentists, laboratory personnel and the health coordinator of settings serving high-risk groups to the local TB control authority or, in the absence of a local TB control authority, to the TB Control Section of the Department.

2) Report Forms and Transmission of Reports. Reports of suspected and confirmed cases of TB shall be made on forms available from the local TB control authority or the Department. To facilitate prompt reporting, telephone or facsimile reports are acceptable if followed by a written report sent through the mail.

3) Reports of Suspected and Confirmed Cases of TB. Persons required to report under subsection (a)(1) of this Section (except for laboratory personnel) shall, within 7 calendar days after the diagnosis of a suspected or confirmed case of TB, notify the local TB control authority of the following:

A) Diagnosis. Information shall be provided about the diagnosis of a suspected or confirmed case of TB, including the dates and results in millimeters of Mantoux skin tests and the results of bacteriologic examinations and chest radiographs. When an apparent occurrence of TB does not have laboratory confirmation or meet the clinical case definition, the local TB control authority should consult with the Department.

B) Clinical Management Information. Information shall be provided about the clinical management of a suspected or confirmed case of TB, including the determination of the infectious or not infectious status, isolation precautions taken, treatment regimen, whether the client is at high-risk for nonadherence to a prescribed treatment regimen, and past or present behavior that indicates a substantial likelihood of not cooperating with prevention and control measures.

C) Surveillance Information. Reportable demographic and locating information regarding the suspected or confirmed case of TB should include the name, address, date of birth, gender, race, ethnic origin, country of origin, month and year the person arrived in the United States (if applicable), non-prescribed drug use and excess alcohol use within the year before the date of submission, occupation, address changes, names and addresses of close contacts, and other information required to complete the tuberculosis

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

reporting form of the Department and the Centers for Disease Control and Prevention, the Report of Verified Case of TB (RVCT) form.

D) Other Information. Any other relevant information requested by the local TB control authority or the Department should be provided. Such information may include hospital discharge plans for out-patient follow-up and locating information for persons with TB infection.

b) Reports to the Department from Local TB Control Authorities. Local TB control authorities shall report to the Department on the diagnosis, clinical management and surveillance of suspected and confirmed cases of TB and the investigation of contacts, as follows. The local TB control authority shall make their records available for inspection by the Department when requested in order to carry out the provisions of this part.

1) Reports of Suspected or Confirmed Cases of TB. Within 7 calendar days after a local TB control authority's receipt of a report of a suspected or confirmed case of TB, the Department shall receive available information on an RVCT form.

2) Reports Due Within 30 Calendar Days After the Department's Request for Information. The Department shall be notified of the status of drug susceptibility test results, contact investigation information, case completion of therapy and other relevant information within 30 calendar days after the Department's request for information.

c) Reports from Laboratories. Within one calendar day after obtaining results, laboratories shall report to the person who requested the test, to the local TB control authority and to the Department smears positive for acid-fast bacilli, cultures or other tests positive for *M. tuberculosis*, and drug susceptibility test results.

d) Confidentiality.

1) It is the policy of the Department to maintain the confidentiality of information that would identify individual patients.

2) Whenever any statute of this State or any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute or any rule of an administrative agency adopted pursuant to statute requires medical practitioners or other persons to report cases of tuberculosis to any governmental agency or officer, such reports shall be confidential, and any medical practitioner or other person making such report in good faith shall be immune from suit for slander or libel based upon any statements contained in such report. The identity of any individual contained in a report of tuberculosis or an investigation conducted pursuant to a report of tuberculosis shall be confidential and such identity shall not be disclosed publicly in any action of any kind in any court or before any tribunal, board or agency. (Communicable Disease Report Act [745

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

- scheduled and determined.
- b) Directives. When it is necessary to protect the public health, safety and welfare, the local TB control authority may ensure prevention and control measures by issuing directives. A directive is a letter that informs recipients what is required of them in order to be in compliance with this Part and the consequences of noncompliance. A directive may include one or more types of directives, as appropriate to the case. (See Sections 696.200 and 696.210.)
 - c) Court Orders. The local TB control authority may seek court orders for diagnostic evaluation, preventive therapy, DOT, disease treatment, DOT and isolation.
 - d) Notification. The local TB control authority shall inform the Department regarding persons in their jurisdiction meeting the description of potential recipients of directives, as specified in Section 696.210.
 - e) Documentation. The local TB control authority shall document evidence (e.g., appointment logs, patient records) concerning the circumstances, as specified in Section 696.210, that make it necessary to seek directives or court orders. Upon the request of the Department, the local TB control authority shall provide such evidence to the Department.

Section 696.200 Types of Directives

- a) Initiation or Completion of the Diagnostic Evaluation. This directive requires the initiation or completion of the diagnostic evaluation for TB infection or disease in accordance with the following incorporated publication: Guidelines for Healthcare Facilities. The diagnostic evaluation may include, but is not limited to, a medical history, physical examination, Mantoux skin test, chest radiograph and bacteriologic examinations.
- b) Preventive Therapy or Disease Treatment. This directive requires completion of a prescribed course of preventive therapy for TB infection or a prescribed course of treatment for TB disease, and bacteriologic or other tests needed to monitor response to treatment or adverse reactions in accordance with the following incorporated publication: Treatment of TB and TB Infection.
- c) DOT or DOT. This directive requires completion of a course of preventive therapy by DOT for infection or treatment by DOT for disease, in accordance with the incorporated publications: Guidelines for Healthcare Facilities and Treatment of TB and TB Infection.
- d) Isolation. This directive requires isolation, in accordance with Section 696.160(b)(1) and the incorporated publications, Guidelines for Healthcare Facilities and the OSHA Instruction, for any person with suspected or confirmed TB disease who is considered to be infectious or likely to become infectious, according to the definitions in this Part.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED RULES

ILCS 45))

SUBPART C: ENFORCEMENT OF TUBERCULOSIS PREVENTION
AND CONTROL MEASURES

Section 696.180 Role of the Department in Enforcement

After providing an opportunity for a patient to present information to support his or her position at a hearing, the Department may issue directives and seek court orders, as necessary to protect the public health, safety and welfare.

- a) Opportunity to be Heard. Prior to issuance of any directive, the Department shall notify the prospective recipient of the directive of the intent to issue a directive and shall offer the recipient an opportunity to be heard before the Director or a designee, provided that within 7 days after receipt of the notice the recipient makes written request for hearing. The notice shall be in writing, shall be served in person or by certified mail, and shall include a brief description of the reasons for issuance of a directive and of the type of directive that may be issued. Any hearing under this Section shall be promptly scheduled and determined.
- b) Directives. When it is necessary to protect the public health, safety and welfare, the Department may ensure prevention and control measures by issuing Department directives. A directive is a letter that informs recipients what is required of them in order to be in compliance with this Part and the consequences of noncompliance. A directive may include one or more types of directives, as appropriate to the case. (See Sections 696.200 and 696.210.)
- c) Court Orders. The Department may seek court orders for diagnostic evaluation, preventive therapy, DOT, disease treatment, DOT and isolation.

Section 696.190 Role of the Local Tuberculosis Control Authority in Enforcement

After providing an opportunity for a patient to present information to support his or her position at a hearing, the local TB control authority may issue directives and seek court orders, as necessary to protect the public health, safety and welfare.

- a) Opportunity to be Heard. Prior to issuance of any directive, the local TB control authority shall notify the prospective recipient of the directive of the intent to issue a directive and shall offer the recipient an opportunity to be heard before the administrator of the local TB control authority or a designee, provided that within 7 days after receipt of the notice the recipient makes written request for hearing. The notice shall be in writing, shall be served in person or by certified mail, and shall include a brief description of the reasons for issuance of a directive and of the type of directive which may be issued. Any hearing under this Section shall be promptly

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 696.210 Potential Recipients of Directives

The local TB control authority shall document information used to identify potential recipients of directives. The local TB control authority or the Department may identify potential recipients of directives. The local TB control authority may seek the cooperation of the Department to identify potential recipients of directives.

- a) Potential Recipients Based Upon Past or Present Behavior. A potential recipient shall be any person who has, or is suspected of having, TB infection or disease and who has demonstrated, in the opinion of the local TB control authority or the Department, through past or present behavior that he or she has a substantial likelihood of:
 - 1) not initiating or completing a diagnostic evaluation to determine if TB infection or disease is present;
 - 2) transmitting, or being able to transmit, disease to others;
 - 3) not participating in DOT for TB infection;
 - 4) not participating in DOT for treatment of disease; or
 - 5) not following disease isolation procedures.
- b) Potential Recipients Based Upon Not Completing Treatment. A potential recipient shall be any person who has been reported to the local TB control authority or the Department as having TB disease and as not completing a prescribed course of treatment.
- c) Potential Recipients Based Upon Being High-Risk for Nonadherence to a Prescribed Treatment Regimen. A potential recipient shall be any person who has a history of treatment nonadherence; whose treatment has failed (treatment failure); whose disease has relapsed; who uses alcohol or controlled substances; who has mental, emotional, or physical impairments that interfere with the ability to self-administer medications; who is a child or adolescent.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 696.APPENDIX A Mantoux Skin Testing Procedures

Mantoux Skin Test. The Mantoux skin test shall be used when identifying persons with infection, regardless of whether a BCG vaccination was received in the past. (See the incorporated publication, The Role of BCG Vaccine.) Multiple puncture tuberculin tests should not be used to determine whether a person has TB infection.

- a) Administration. A trained person shall administer the Mantoux skin test in accordance with the incorporated publication, Core Curriculum.
- b) Reading Reactions. Mantoux skin test reactions should be read 48 to 72 hours after administration in accordance with Appendix C and the incorporated publication Core Curriculum, and recorded in millimeters of induration. A positive reaction can be documented up to 7 days after the skin test was performed. A negative reaction shall not be documented beyond 72 hours after the skin test was performed. A trained person shall read the test. The recipient of a skin test should not read his or her own skin test, even if the recipient is a trained health care worker.
- c) Interpreting Reactions. The millimeter reading for defining a positive reaction shall depend on a person's risk factors for TB. (See Appendix C and the incorporated publications, Screening for High-Risk Populations and Treatment of TB and TB Infection, for further information about interpreting reactions in specific groups.) Agency Note: Anergy. The absence of a reaction to the tuberculin skin test does not rule out the diagnosis of TB infection or disease. Anergy should be considered in immunosuppressed persons who have no reaction to the skin test.
- d) Two-Step Testing. Testing of persons who will be retested periodically (such as persons at high risk of exposure to TB) and who do not have a documented negative skin test reaction during the preceding 12 months shall be done by two-step testing, except as provided for in Section 696.140(a)(2)(B). The first Mantoux skin test in two-step testing can be read from 48 hours to 7 days after the test is administered. If the reaction to the first test is positive, a person shall be considered infected. If the reaction to the first skin test is negative, a second test shall be administered 7 to 21 days after the first test was administered. The second test shall be read 48 to 72 hours after administration. (See Appendix B.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 696.APPENDIX B Waivers for Mantoux Skin Testing Requirements

- a) Persons Who are Not Part of a Routine, Periodic Screening Program. Mantoux skin testing requirements can be waived when documentation is available of a Mantoux skin test result read within 90 days before employment.
- b) Persons Who are Part of a Routine, Periodic Screening Program. Mantoux skin testing requirements can be waived with documentation of:
 - 1) Two or more negative Mantoux skin test results read within one year before employment/admission, with the most recent Mantoux skin test read within 90 days before employment/admission; or
 - 2) A negative Mantoux skin test result read within one year before employment/admission, provided that the employee shall then receive an additional Mantoux skin test within 7 days after employment/admission; or
 - 3) Negative two-step testing results read within 90 days before employment/admission; or
 - 4) Negative two-step testing results read within one year before employment/admission, followed by a negative Mantoux skin test result read within 90 days before employment/admission; or
 - 5) Negative two-step testing results read within one year before employment/admission, provided that the employee shall then receive an additional Mantoux skin test within 7 days after employment/admission.
- c) Employees Re-hired or Clients Re-admitted Within a 12-Month Period. Employees and clients sometimes leave a facility for a period of time and later return to that facility. These employees and clients, who have previously met skin testing requirements, may have the skin test requirements for new hires or new admissions waived if indicated by a risk assessment and, in the judgement of the facility's medical director, these persons were at low risk of exposure to tuberculosis during their absence from the facility. Consultation should be obtained from the local TB control authority as necessary. A waiver signed by the facility's medical director shall be included in the employees' files.
- d) Persons with Documentation of a Previous Positive Reaction. Repeat skin testing is not needed or required for persons with documentation of a previous positive reaction to a Mantoux skin test. (See Section 696.140(b) for screening procedures for persons with documentation of a previous positive reaction.)
- e) Volunteers. At workplaces, screening requirements for volunteers may be waived based on the results of a risk assessment performed by the local TB control authority. Documentation of such waiver shall be kept on file at the facility.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Section 696.APPENDIX C Summary of the Interpretation of Tuberculin Skin Test Results

1. An induration equal to or greater than 5 mm is classified as positive in the following:
 - Persons who have had recent close contact with persons who have active TB.
 - Persons who have been diagnosed with HIV infection or who have risk factors for HIV infection but whose HIV status is unknown.
 - Persons who have fibrotic chest radiographs consistent with healed TB.
2. An induration equal to or greater than 10 mm is classified as positive in all persons who do not meet any of the above criteria, but who belong to one or more of the following groups having high risk for TB:
 - Injecting-drug users known to be HIV seronegative;
 - Persons who have other medical conditions that have been reported to increase the risk for progressing from latent TB infection to active TB disease. These medical conditions include diabetes mellitus, conditions requiring prolonged high-dose corticosteroid therapy and other immunosuppressive therapy (including bone marrow and organ transplantation), chronic renal failure, some hematologic disorders (e.g., leukemia and lymphomas), other specific malignancies (e.g., carcinoma of the head or neck), weight loss equal to or greater than 10% below ideal body weight, silicosis, gastrectomy, jejunoileal bypass;
 - Residents and employees of high-risk congregate settings: prisons and jails, nursing homes and other long-term residential facilities for the elderly, health-care facilities (including some residential mental health facilities), and homeless shelters;
 - Foreign-born persons who have recently arrived (i.e., within the last 5 years) from countries having a high prevalence or incidence of TB;
 - Some medically underserved, low-income populations, including migrant farm workers and homeless persons;
 - High-risk racial or ethnic minority populations, as defined locally; and
 - Children less than 4 years of age, or infants, children, and adolescents exposed to adults in high-risk categories.
3. An induration equal to or greater than 15 mm is classified as positive in persons who do not meet any of the above criteria.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

1) Heading of the Part: Energy Assistance Charge

2) Code Citation: 86 Ill. Adm. Code 516

3) Section Numbers: Adopted Action:
 516.100 New Section
 516.110 New Section
 516.120 New Section
 516.130 New Section

4) Statutory Authority: 305 ILCS 20

5) Effective Date of Rule(s): June 8, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: June 8, 1998

9) Notice of Proposal Published in Illinois Register: January 2, 1998, 22 Ill. Reg. 172

10) Has JCAR issued a Statement of Objection to these Rules? No

11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency rulemaking currently in effect?
 Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Provides that municipal electric utilities or electric cooperatives that make affirmative decisions to impose the Energy Assistance Charge shall inform the Department of Revenue in writing of that decision when they begin their imposition of the charge. Provides that monthly returns are due on or before the 20th day of the month following the month the Energy Assistance Charge was collected. Also sets forth the information required to be included on the return.

16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

Melanie Jarvis
 Terry Charlton
 Associate Counsels
 Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 Phone: (217) 782-6996

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED RULES

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 516
ENERGY ASSISTANCE CHARGE

Section

- 516.100 Definitions
- 516.110 Nature of Energy Assistance Charge
- 516.120 Energy Assistance Charge Rates
- 516.130 Energy Assistance Charge Return

AUTHORITY: Implementing the Energy Assistance Act of 1989 [305 ILCS 20].

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 1006, effective December 16, 1997, for a ~~maximum of 50 days~~ adopted at 22 Ill. Reg. 1009, effective JUN 8 1998.

Section 516.100 Definitions

For the purposes of this Part:

- "non-residential electric service" means electric utility service which is not residential electric service; [305 ILCS 20/13]
- "non-residential gas service" means gas utility service which is not residential gas service; [305 ILCS 20/13]
- "residential electric service" means electric utility service for household purposes delivered to a dwelling of 2 or fewer units which is billed under a residential rate, or electric utility service for household purposes delivered to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit; [305 ILCS 20/13]
- "residential gas service" means gas utility service for household purposes distributed to a dwelling of 2 or fewer units which is billed under a residential rate, or gas utility service for household purposes distributed to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit. [305 ILCS 20/13]

Section 516.110 Nature of Energy Assistance Charge

- a) Notwithstanding the provisions of Section 16-111 of the Public Utilities Act, each public utility, electric cooperative, as defined in Section 3.4 of the Electric Supplier Act, and municipal utility, as referenced in Section 3-105 of the Public Utilities Act, that is

engaged in the delivery of electricity or the distribution of natural gas within the State of Illinois shall, effective January 1, 1998, assess each of its customer accounts a monthly Energy Assistance Charge. [305 ILCS 20/13]

- b) However, the charges imposed by this Part shall only apply to customers of municipal electric utilities and electric cooperatives if the municipal electric utility or electric cooperative makes an affirmative decision to impose the charge. [305 ILCS 20/13]
- c) If a municipal electric utility or an electric cooperative makes an affirmative decision to impose the charge, such municipal electric utility or electric cooperative shall inform the Department of Revenue in writing of such decision when it begins to impose such charge.

Section 516.120 Energy Assistance Charge Rates

The Energy Assistance Charge shall be assessed monthly for each customer account as follows:

- a) \$0.40 per month on each account for residential electric service;
- b) \$0.40 per month on each account for residential gas service;
- c) \$4 per month on each account for non-residential electric service which had less than 10 megawatts of peak demand during the previous calendar year;
- d) \$4 per month on each account for non-residential gas service which had distributed to it less than 4,000,000 therms of gas during the previous calendar year;
- e) \$300 per month on each account for non-residential electric service which had 10 megawatts or greater of peak demand during the previous calendar year; and
- f) \$300 per month on each account for non-residential gas service which had 4,000,000 or more therms of gas distributed to it during the previous calendar year. [305 ILCS 20/13]

Section 516.130 Energy Assistance Charge Return

- a) The Energy Assistance Charges collected shall be paid to the Department of Revenue by the entities assessing this charge with a monthly return due on or before the 20th day of the month following the month in which the Energy Assistance Charges were collected.
- b) The return required to be filed under subsection (a) of this Section shall be signed and verified and contain all of the following information:
 - 1) name of utility or cooperative;
 - 2) address of utility or cooperative;
 - 3) Illinois Business Tax Number, Federal Employer Identification Number, or Registration Number;
 - 4) total number of residential accounts for gas service, electric service, or both upon which the Energy Assistance Charge was collected;

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

- 5) total number of non-residential accounts for gas service which had less than 4 million therms of gas delivered during the previous calendar year upon which the Energy Assistance Charge was collected;
- 6) total number of non-residential accounts for gas service which had 4 million or more therms of gas delivered during the previous calendar year upon which the Energy Assistance Charge was collected;
- 7) total number of non-residential accounts for electric service which had less than 10 megawatts of peak demand during the previous calendar year upon which the Energy Assistance Charge was collected;
- 8) total number of non-residential accounts for electric service which had 10 megawatts or greater of peak demand during the previous calendar year upon which the Energy Assistance Charge was collected;
- 9) such other information as the Department of Revenue may reasonably require.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Payment of Taxes by Electronic Funds Transfer
- 2) Code Citation: 86 Ill. Adm. Code 750
- 3) Section Numbers: Adopted Action:
750.500 Amendment
- 4) Statutory Authority: 35 ILCS 120
- 5) Effective Date of Amendment(s): June 8, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 8, 1998
- 9) Notice of Proposal Published in Illinois Register:
January 9, 1998, 22 Ill. Reg. 1113
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment(s): This proposed rulemaking sets out the types of payments the Department is currently able to accept through the voluntary use of electronic funds transfer.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Terry Charlton
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

The full text of the Adopted Amendment begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

e) The Department is accepting voluntary electronic funds transfer payments of the following taxes and fees:

- ICT-1, Electricity Distribution and Invested Capital Tax Estimated Payment
- ICT-4, Electricity Distribution and Invested Capital Tax Return (payment only)
- IL-501, Illinois Withholding Tax Payment
- IL-501-I, Automatic Extension Payment for Individuals
- IL-505-B, Payment of Automatic Extension (for corporations, small business corporations, partnerships, fiduciaries, or exempt organizations)
- IL-1040-PS, Estimated Income Tax Payment for Individuals
- IL-1120-ES, Estimated Income and Replacement Tax Payment for Corporations
- PST-1, Prepaid Sales Tax Return (payment only)
- PST-3, Prepaid Sales Tax Quarter-Monthly Payment (for accelerated sales tax filers)
- RG-1, Gas Revenue Tax Return (payment only)
- RPU-35, Public Utilities Tax Return (payment only)
- RPU-50, Public Utilities Quarter-Monthly Payment - Electric, Gas, Telecommunications Excise Tax, and Telecommunications Infrastructure Maintenance Fee
- RR-3, Sales and Use Tax Quarter-Monthly Payment (for accelerated sales and use tax filers)
- RT-2, Telecommunications Excise Tax Return (payment only)
- RT-10, Telecommunications Infrastructure Maintenance Fee Return (payment only)
- SR-1, Sales and Use Tax Return (payment only)

(Source: Amended at 22 Ill. Reg. 10906, effective JUN 08 1998)

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 750
PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER

- Section 750.100 Scope of the Program and Rules
- 750.200 Definitions
- 750.300 Payments Required to be Paid by Electronic Funds Transfer
- 750.400 Eligibility Determination and Taxpayer Notification
- 750.500 Voluntary Program Participation
- 750.600 Methods of Electronic Funds Transfer Payment
- 750.700 Payment Transmission Errors
- 750.800 Department Notification Requirement
- 750.900 Due Date; General Provisions

AUTHORITY: Implementing and authorized by the Retailers' Occupation Tax Act [35 ILCS 120].

SOURCE: Adopted at 17 Ill. Reg. 18132, effective October 4, 1993; amended at 18 Ill. Reg. 15612, effective October 11, 1994; amended at 20 Ill. Reg. 9111, effective July 2, 1996; amended at 22 Ill. Reg. 10904, effective JUN 08 1998.

Section 750.500 Voluntary Program Participation

- a) Any taxpayer who is not required to make estimated or accelerated payments by electronic funds transfer is encouraged to seek the permission of the Department to make payments by electronic funds transfer.
- b) Taxpayers who wish to voluntarily participate in the electronic funds transfer program must file an application for participation with the Department. Taxpayers should be aware that it will generally take a minimum of 60 days for the Department to process a request for voluntary participation in the electronic funds transfer program.
- c) In determining whether to grant or deny an application for participation the Department will consider the filing and payment history of the taxpayer, the average amount of payments made by the taxpayer and the cost to the Department of the taxpayer's participation in the program versus the cost to the Department of processing traditional forms of payment from the taxpayer.
- d) Once an applicant has been approved as a voluntary participant, all required payments must be made by electronic funds transfer for the next twelve months. Voluntary participants may not switch back and forth between electronic funds transfer and payment by check or draft. Failure to pay by the due date by electronic funds transfer may be grounds for dismissal from voluntary participation in the program.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Renewable Energy Resources and Coal Technology Development Assistance Charge

- 2) Code Citation: 86 Ill. Adm. Code 517

- 3) Section Numbers:
 517.100 Adopted Action:
 517.110 New Section
 517.120 New Section
 517.130 New Section

- 4) Statutory Authority: 20 ILCS 2505/39b19 and 20 ILCS 605/46.20. Pursuant to 5 ILCS 220, an Interagency Agreement was entered into on January 27, 1998 by and between the Illinois Department of Commerce and Community Affairs and the Illinois Department of Revenue, the terms of which granted collection authority under the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, P.A.90-561, to the Department of Revenue.

- 5) Effective Date of Rule(s): June 8, 1998

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Do these rules contain incorporations by reference? No

- 8) Date Filed in Agency's Principal Office: June 8, 1998

- 9) Notice of Proposal Published in Illinois Register: February 6, 1998, 22 Ill. Reg. 2761

- 10) Has JCAR issued a Statement of Objection to these Rules? No

- 11) Differences between proposal and final version: No changes were requested by JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR.

- 13) Will this rulemaking replace an emergency rulemaking currently in effect?
 Yes

- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Rules: Provides that municipal electric utilities or electric cooperatives that make affirmative decisions to impose the Renewable Energy Resources and Coal Technology Development Assistance Charge shall inform the Department of Revenue in writing of that decision

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

when they begin their imposition of the charge. Provides that monthly returns are due on or before the 20th day of the month following the month the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected. Also sets forth the information required to be included on the return.

- 16) Information and questions regarding these adopted rules shall be directed to:

Melanie Jarvis
 Terry Charlton
 Associate Counsels
 Illinois Department of Revenue
 Legal Services Office
 101 West Jefferson
 Springfield, Illinois 62794
 (217) 782-6996

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED RULES

purposes distributed to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit [305 ILCS 20/13].

Section 517.110 Nature of Renewable Energy Resources and Coal Technology Development Assistance Charge

- The charges imposed by this Part shall only apply to customers of municipal electric utilities and electric cooperatives if the municipal electric utility or electric cooperative makes an affirmative decision to impose the charge. (Section 6-5(e) of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997 (see P.A. 90-561))
- If a municipal electric utility or an electric cooperative makes an affirmative decision to impose the charge, such municipal electric utility or electric cooperative shall inform the Department of Revenue in writing of such decision when it begins to impose such charge.

Section 517.120 Renewable Energy Resources and Coal Technology Development Assistance Charge Rates

The Renewable Energy Resources and Coal Technology Development Assistance Charge shall be assessed monthly for each customer account as follows:

- \$0.05 per month on each account for residential electric service as defined in Section 517.100 of this Part;
- \$0.05 per month on each account for residential gas service as defined in Section 517.100 of this Part;
- \$0.50 per month on each account for non-residential electric service, as defined in Section 517.100 of this Part, taking less than 10 megawatts of peak demand during the previous calendar year;
- \$0.50 per month on each account for non-residential gas service, as defined in Section 517.100 of this Part, taking less than 4,000,000 therms of gas during the previous calendar year;
- \$37.50 per month on each account for non-residential electric service, as defined in Section 517.100 of this Part, taking 10 megawatts or greater of peak demand during the previous calendar year; and
- \$37.50 per month on each account for non-residential gas service, as defined in Section 517.100 of this Part taking 4,000,000 or more therms of gas during the previous calendar year. (Section 6-5(a) of the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997 (see P.A. 90-561))

Section 517.130 Renewable Energy Resources and Coal Technology Development Assistance Charge Return

- The Renewable Energy Resources and Coal Technology Development Assistance Charge collected shall be paid to the Department of Revenue by the entities assessing this charge with a monthly return due on or

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED RULES

TITLE 86: REVENUE
CHAPTER 1: DEPARTMENT OF REVENUE

PART 517
RENEWABLE ENERGY RESOURCES AND COAL TECHNOLOGY DEVELOPMENT ASSISTANCE CHARGE

- Section 517.100 Definitions
- 517.110 Nature of Renewable Energy Resources and Coal Technology Development Assistance Charge
- 517.120 Renewable Energy Resources and Coal Technology Development Assistance Charge Rates
- 517.130 Renewable Energy Resources and Coal Technology Development Assistance Charge Return

AUTHORITY: 20 ILCS 2505/39b19 and 20 ILCS 605/46.20. Pursuant to 5 ILCS 220, an Interagency Agreement was entered into on January 27, 1998 by and between the Illinois Department of Commerce and Community Affairs and the Illinois Department of Revenue, the terms of which granted collection authority under the Renewable Energy, Energy Efficiency, and Coal Resources Development Law of 1997, P.A. 90-561, to the Department of Revenue

SOURCE: Adopted by emergency rule at 22 Ill. Reg. 3141, effective January 27, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 3141, effective JUN 08 1998.

Section 517.100 Definitions

For the purposes of this Part:

"non-residential electric service" means electric utility service which is not residential electric service [305 ILCS 20/13];

"non-residential gas service" means gas utility service which is not residential gas service [305 ILCS 20/13];

"residential electric service" means electric utility service for household purposes delivered to a dwelling of 2 or fewer units which is billed under a residential rate, or electric utility service for household purposes delivered to a dwelling unit or units which is billed under a residential rate and is registered by a separate meter for each dwelling unit [305 ILCS 20/13];

"residential gas service" means gas utility service for household purposes distributed to a dwelling of 2 or fewer units which is billed under a residential rate, or gas utility service for household

DEPARTMENT OF REVENUE
NOTICE OF ADOPTED RULES

before the 20th day of the month following the month in which the Renewable Energy Resources and Coal Technology Development Assistance Charges were collected.

- b) The return required to be filed under subsection (a) of this Section shall be signed and verified and contain all of the following information:

- 1) name of utility or cooperative;
- 2) address of utility or cooperative;
- 3) Illinois Business Tax Number, Federal Employer Identification Number, or Registration Number;
- 4) total number of residential accounts for gas service, electric service, or both upon which the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected;
- 5) total number of non-residential accounts for gas service taking less than 4 million therms of gas during the previous calendar year upon which the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected;
- 6) total number of non-residential accounts for gas service taking 4 million or more therms of gas during the previous calendar year upon which the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected;
- 7) total number of non-residential accounts for electric service taking less than 10 megawatts of peak demand during the previous calendar year upon which the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected;
- 8) total number of non-residential accounts for electric service taking 10 megawatts or greater of peak demand during the previous calendar year upon which the Renewable Energy Resources and Coal Technology Development Assistance Charge was collected;
- 9) such other information as the Department of Revenue may reasonably require.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 2, 1998 through June 8, 1998 and have been scheduled for review by the Committee at its June 16, 1998 or July 21, 1998 meetings in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
7/11/98	Illinois Community College Board, Administration of the Illinois Public Community College Act (23 Ill Adm Code 1501)	7/11/97 21 Ill Reg 8745	6/16/98
7/16/98	Department of Human Services, Aid to the Aged, Blind or Disabled (89 Ill Adm Code 113)	1/30/98 22 Ill Reg 2513	6/16/98
7/17/98	Department of Public Health, Certified Local Health Department Code (77 Ill Adm Code 600)	1/16/98 22 Ill Reg 1717	6/16/98
7/17/98	Department of Public Health, Visa Waiver Program for International Medical Graduates (77 Ill Adm Code 591)	8/22/97 21 Ill Reg 11627	6/16/98
7/17/98	Department of Public Health, Emergency Medical Services and Trauma Center Code (77 Ill Adm Code 515)	2/20/98 22 Ill Reg 3745	6/16/98
7/18/98	Pollution Control Board, Nonmethane Organic Compounds (35 Ill Adm Code 220)	4/10/98 22 Ill Reg 6466	6/16/98
7/18/98	Pollution Control Board, Permits and General Provisions (35 Ill Adm Code 201)	4/10/98 22 Ill Reg 6500	6/16/98
7/22/98	Illinois Commerce Commission, Fees and Taxes (92 Ill Adm Code 1205)	10/24/97 21 Ill Reg 13951	7/21/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/22/98	Department of Human Services, Repeal of Minimum Standards for Licensure of Community Residential Alternatives (59 Ill Adm Code 113)	4/10/98 22 Ill Reg 6354	7/21/98
7/22/98	Department of Insurance, Derivative Instruments (50 Ill Adm Code 806)	3/13/98 22 Ill Reg 4593	7/21/98
7/22/98	Department of Insurance, Supplemental Reports for Property and Casualty Insurance Companies (50 Ill Adm Code 936)	3/20/98 22 Ill Reg 5177	7/21/98
7/22/98	Department of Professional Regulation, Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150)	3/13/98 22 Ill Reg 4607	7/21/98
7/22/98	Department of Revenue, Electronic Filing of Returns or Other Documents (86 Ill Adm Code 760)	4/10/98 22 Ill Reg 6605	7/21/98
7/22/98	State Employees' Retirement System of Illinois, The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill Adm Code 1540)	4/10/98 22 Ill Reg 6622	7/21/98
7/22/98	Department of Transportation, Inspection Procedures for Special Education School Buses (92 Ill Adm Code 445)	1/30/98 22 Ill Reg 2558	7/21/98

In the Second Notice list in last week's issue of the Illinois Register, 2 Department of Natural Resources rules were incorrectly listed as Department of Transportation rulemakings. The rulemakings are "Selection of Contractors and Consultants for Abandoned Mined Lands Reclamation Projects" (44 Ill Adm Code 1150; 22 Ill Reg 6437) and "Abandoned Mined Lands Reclamation" (62 Ill Adm Code 2501; 22 Ill Reg 6406).

PROCLAMATIONS

98-292

BOB KUSTRA COMMENDED

Whereas, Bob Kustra has demonstrated a strong commitment to education in Illinois during his extensive public career as a state Representative, state Senator, Lieutenant Governor, and Chair of the Illinois Board of Higher Education; and

Whereas, Bob Kustra has taught at Northwestern University, the University of Illinois at Chicago, Roosevelt University, Sangamon State University, Lincoln Land Community College, and Oakton Community College, and served as the Director of the Center for Research in Urban Government at Loyola University of Chicago; and

Whereas, Bob Kustra has been a champion of issues concerning faculty at public and private colleges and universities in Illinois and has been a leader in promoting the involvement of students in public service; and

Whereas, Bob Kustra co-chaired, with Arthur Quern, the Governor's Task Force on Higher Education that produced a restructuring of higher education governance in 1995; and

Whereas, Bob Kustra was instrumental in launching Project Success to help children cope with family or health difficulties that could impair their education; and

Whereas, Bob Kustra was the sponsor of education reform legislation in 1985 and played a major role in the reform of the Chicago Public Schools in 1995; and

Whereas, Bob Kustra has been the leader for the Edgar Administration on issues linking education and economic development and co-chaired the Human Resource Investment Council to better prepare students for the workforce through partnerships with local schools, community colleges and businesses; and

Whereas, Bob Kustra has been a strong advocate for increasing the use of technology in the classroom, and served on the Higher Education Technology Task Force, which has recommended creation of the state-of-the-art Illinois Century Network;

Therefore, I, Jim Edgar, Governor of the State of Illinois, commend Lieutenant Governor Bob Kustra on his continued commitment to education in Illinois.

Issued by the Governor May 4, 1998.
Filed by the Secretary of State May 29, 1998.

98-293

GFWC ILLINOIS WEEK

Whereas, the GFWC Illinois Federation of Women's Clubs is a member state of the General Federation of Women's Clubs, the world's largest volunteer organization; and

Whereas, women throughout Illinois are attending the GFWC Illinois' 103rd Annual Convention in Decatur; and

Whereas, GFWC Illinois clubs will be recognized for their accomplishments in the areas of education, health, home life, international affairs, conservation, public affairs, Native American/Veteran Affairs, and Public Relations. Awards will also be presented in the field of Leadership and

Membership; and

Whereas, charitable organizations will be receiving monetary awards from the projects of Illinois Club women, with special emphasis on contributions made to Prevent Child Abuse Illinois Voices for Illinois Children, and Parents Anonymous; and

Whereas, "Our Promise, A Safe Place for Every Child" -- GFWC Illinois State President's Project and "Women's Wellness" -- GFWC Illinois Junior Director's Project will highlight the Convention;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18-24, 1998, as GFWC ILLINOIS WEEK in Illinois.

Issued by the Governor May 8, 1998.

Filed by the Secretary of State May 29, 1998.

98-294

AQUATIC WEEK

Whereas, individual and organized forms of recreation and the creative use of free time are vital to the happy lives of all our citizens; and

Whereas, park and recreation programs throughout the State of Illinois encompass a multitude of activities that can result in personal accomplishment, self satisfaction and family unity for all citizens; and

Whereas, citizens of Illinois should recognize the vital role that swimming and aquatic-related activities relate to good physical and mental health and enhance the quality of life for all people; and

Whereas, communities throughout Illinois contribute to providing all ages a healthy place to recreate;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17-24, 1998, as AQUATIC WEEK in Illinois.

Issued by the Governor May 11, 1998.

Filed by the Secretary of State May 29, 1998.

98-295

AVIATION SAFETY AWARENESS MONTH

Whereas, the Federal Aviation Administration Aviation Safety Program is dedicated to promoting safety and education in the aviation community; and

Whereas, the Aviation Safety Program strives to provide the general public and the aviation community with programs and activities that will emphasize the importance of providing the safest means of transportation in the world; and

Whereas, the Aviation Safety Program provides services such as: counseling of airmen on local flying conditions and safe operating practices, counseling on Federal Aviation Regulations to maintenance personnel, seminars and presentations on aviation safety topics, and assisting the aviation community with aviation events; and

Whereas, the Aviation Safety Program also provides assistance in organizing airport safety support groups, supports the Aviation Safety Counselor Program, a group of volunteers dedicated to the promotion of aviation safety, and provides the general public and the aviation community with training on the Federal Aviation Regulations;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as AVIATION SAFETY AWARENESS MONTH in Illinois.

Issued by the Governor May 11, 1998.

Filed by the Secretary of State May 29, 1998.

98-296

LEADERSHIP SPRINGFIELD DAY

Whereas, Leadership Springfield was founded in 1986 by the Greater Springfield Chamber of Commerce and the Junior League of Springfield; and

Whereas, the purpose of Leadership Springfield is to identify and motivate emerging leaders from a cross-section of the community and develop their potential for civic leadership by exposing them to the realities, opportunities and challenges of the community; and

Whereas, Leadership Springfield is one of 500 leadership training institutes throughout the United States designed to provide education and training to individuals who want to strengthen their community by becoming more involved; and

Whereas, the 1997-98 graduating class of Leadership Springfield, with 30 participants, has completed the eight month program and worked on various projects benefiting the community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 21, 1998, as LEADERSHIP SPRINGFIELD DAY in Illinois.

Issued by the Governor May 11, 1998.

Filed by the Secretary of State May 29, 1998.

98-297

QUENTIS BERNARD GARTH DAY

Whereas, the Quentis Bernard Garth (QBG) Foundation was founded in May of 1995 by William (Bill) Garth, CEO & Publisher of the Citizen Newspaper Chain, to develop and implement an annual Scholarship Award Program for academically gifted inner-city youth pursuing post-secondary studies at Institutions of Higher Education; and

Whereas, the QBG Foundation will commemorate the anniversary of its 4th Scholarship Award Banquet at the Chicago Hilton & Towers Hotel on May 16, 1998, at 7:00 P.M. in the International Room; and

Whereas, Bill Garth, founder of the QBG Foundation, continues to exist in perpetuity as an immutable monument to the premature extinction of his young son's life, Quentis Bernard Garth; and

Whereas, the QBG Foundation shall utilize its resources in a manner beneficial to under-privileged inner-city youth and to inner-community development; and

Whereas, the QBG Foundation shall strive to inculcate in the minds of its scholarship awardees that each incremental stage of their education can translated into a greater quality-of-life, a greater meaning-of-life, and a greater love-of-life; and

Whereas, the QBG Foundation shall present its 2nd, 3rd, & 4th installments of scholarships to students currently at colleges or universities under prior scholarship grants, together with the 1st installment of scholarships to all first year students;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1998, as QUENTIS BERNARD GARTH DAY in Illinois.

Issued by the Governor May 11, 1998.

September 9, 1998, as WOMEN'S BUSINESS DEVELOPMENT DAY in Illinois to honor the Women's Business Development Center's 12th Annual Entrepreneurial Woman's Conference and in celebration of more than a decade of the WBDC's outstanding advocacy and service to women business owners.

Issued by the Governor May 11, 1998.
Filed by the Secretary of State May 29, 1998.

98-300
CHARLES L. GAUWITZ DAY

Whereas, Charles L. Gauwitz was born May 29, 1941, to A.C. Arthur Gauwitz and Virginia Gauwitz in Lacon, Illinois; and
Whereas, he has three brothers, Archie Vernon, Roger and Henry "Hank", and two sisters, Judy and Mary; and

Whereas, Charles L. Gauwitz was married on July 4, 1958, to Linda Smith and was blessed to have three daughters, Dawn Meierkord, Denise Watkins and Janice Adami; three son-in-laws, Barry Meierkord, Philip Watkins and Ron Adami; and three grandchildren, Erika Walin, Monika Meierkord and Colton Watkins; and

Whereas, Charles Gauwitz became a member of Teamster Local 627, March 1, 1959. He was elected as a Trustee of Local 627 in 1968, and appointed by Elvin "Hawk" Hughes, President of Illinois Conference of Teamsters, as Organizer of Joint Council 65 in Springfield, Illinois; and

Whereas, in 1972, he was elected Business Representative for Teamsters Local 627 and shortly thereafter Recording Secretary. In 1986, he was appointed Vice President of Joint Council 65 and Illinois Conference of Teamsters. In 1987, he was appointed President of Teamsters Local 627 in Peoria, Illinois. In 1987, he was appointed President of Teamsters Local Council 65 and Illinois Conference of Teamsters; and

Whereas, Charles L. Gauwitz should be commended for his many years of dedicated service to the citizens of Illinois and receives my best wishes on a fulfilling retirement;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1998, as CHARLES L. GAUWITZ DAY in Illinois.

Issued by the Governor May 12, 1998.
Filed by the Secretary of State May 29, 1998.

98-301
VASA ORDER OF AMERICA DAYS

Whereas, the Vasa Order of America was founded in 1987 as a benefit fraternal society for Swedish immigrants to the United States, Swedish born men who through the Vasa Order could learn the new language and ways of a new country; and

Whereas, the Order was named for Gustav Vasa, who liberated the country in the 15th century and became the first King of modern Sweden; and

Whereas, today the Vasa Order of America provides its members a means to share their rich heritage with fellow Americans and helps them to learn and remember the meaningful ways and values of the "Old Country"; and

Whereas, the Vasa Order of America welcomes men and women of Scandinavian roots (Swedish, Norwegian, Danish, Finnish or Icelandic) to nearly 300 lodges in Sweden, Canada and the United States, governed by 19 district lodges; and

Filed by the Secretary of State May 29, 1998.

98-298
WATER AWARENESS MONTH

Whereas, water is a basic, essential need of every living creature; and
Whereas, the health, comfort and standard of living of our citizens as well as the economic growth and productivity of our state depend on safe and dependable water supplies; and

Whereas, nearly 1,800 Illinois community water supplies currently furnish safe, abundant supplies of drinking water every day to their users; and

Whereas, protecting our source waters from pollution, practicing water conservation and acting at the local level to protect our irreplaceable water resources all rely on the awareness and responsible actions of Illinois citizens; and

Whereas, Consumers Illinois Water Company is taking advantage of this opportunity to raise the awareness of current water issues; and

Whereas, Consumers Illinois Water Company is making a special effort to educate Kankakee area school children on water safety by promoting National Drinking Water Week, conducting tours of the plant and running a coloring contest in the local newspaper;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 1998 as WATER AWARENESS MONTH in Illinois.

Issued by the Governor May 11, 1998.
Filed by the Secretary of State May 29, 1998.

98-299
WOMEN'S BUSINESS DEVELOPMENT DAY

Whereas, the Women's Business Development Center (WBDC) is a nationally-recognized nonprofit women's business assistance organization devoted to providing services and programs in support of women's business ownership and strengthen the impact of women on the economy; and

Whereas, the Women's Business Development Center will hold its 12th Annual Entrepreneurial Woman's Conference on September 9, 1998, at Chicago's Navy Pier; and

Whereas, the Conference marks the continuation of the second decade of the WBDC's commitment to the demands of women entrepreneurs for greater opportunities in business ownership and development; and

Whereas, the WBDC has, in response, put forth creative and innovative approaches to solving this national issue, striving to influence the larger political and economic environment in a way that encourages and supports women's economic empowerment; and

Whereas, the WBDC was founded in 1986 by Carol Dougal and Hedy Ratner and since then, more than 30,000 women business owners have used its programs and services: one-on-one counseling, workshops, entrepreneurial training, the Women's Business Finance Program, the Women's Business Enterprise Initiative and employment training resources; and

Whereas, there are now over 7.7 million women-owned businesses in the U.S. and over 250,000 in Illinois, and women business owners employ 35 percent more people in the U.S. than the 1994 Fortune 500 companies did nationwide;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim

Whereas, the Vasa Order of America, by encouraging the observance of Midsummer, Lief Erickson Day, Luciafest, promotes the traditions and culture of Scandinavian Americans; and

Whereas, in honor of the 90th anniversary of District Lodge Lake Michigan No. 8 and 85th anniversary of Brahe Lodge #245, the Vasa Order of America will celebrate at the Ramada Suites and Rockford Conference Center in Rockford, Illinois; and

Whereas, many lodges of the Vasa Order of America sponsor classes and children's clubs in which folk songs and dances are learned and performed in authentic costumes;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15-17, 1998, as VASA ORDER OF AMERICA DAYS in Illinois.

Issued by the Governor May 12, 1998.

Filed by the Secretary of State May 29, 1998.

98-302

ENDANGERED SPECIES PROTECTION DAY

Whereas, the endangered resources of Illinois are vital components of the natural environment which enhance the beauty of our state and the quality of life of its communities; and

Whereas, protecting those dwindling resources is an undertaking which is important to all the citizens of Illinois; and

Whereas, the Endangered Species Protection Board was established by the Illinois Endangered Species Protection Act in 1973, and is responsible for determining which species of native plants and animals are in danger of disappearing from the wild in Illinois; and

Whereas, the Illinois Endangered Species Protection Board works in partnership with the Illinois Department of Natural Resources to conserve, enhance, and recover endangered and threatened species in Illinois, and to educate our citizens about the value of those resources; and

Whereas, the Endangered Species Protection Board has, for 25 years, maintained a high level of scientific objectivity and professionalism which is crucial to the understanding of endangered species and to the advancement of their protection; and

Whereas, 1998 marks the Endangered Species Protection Board's 25th year, and the Board will conduct its 100th meeting on May 15, 1998;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1998, as ENDANGERED SPECIES PROTECTION DAY in Illinois.

Issued by the Governor May 13, 1998.

Filed by the Secretary of State May 29, 1998.

98-303

MACK ROSSIE LEMONS DAY

Whereas, Mack Rossie Lemons was born April 4, 1927, in Meridian, Mississippi, to the late Dewitt and Azzi Leah Lemons; and

Whereas, he was united in holy matrimony to the late Mary Clark-Lemons, and the Lord blessed them with one son, Leonard, and four daughters: Demetria Purchase Rodgers, Rita Byrd, Valda Haywood of East St. Louis, Illinois, and Pamela Russell of Jacksonville, Florida. He is the grandfather to 10 and the great-grandfather to seven. Later in 1974 in Meridian, Mississippi, he was

united to Kitty Bernice Reese. She has been a devoted wife and helpmate for 24 years; and

Whereas, Mack Rossie Lemons received his calling to the ministry at the young age of nine, in Meridian, Mississippi. In 1955, he moved to the great city of East St. Louis, Illinois. He has served in the pastorate of Pilgrim Baptist Church for 43 faithful years. During this time he has been Past Moderator of New Salem District Association, served as 2nd Vice Moderator of New Salem District Association, Minister United Against Human Suffering and a member of Board of Directors for One Church One Child;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17, 1998, as MACK ROSSIE LEMONS DAY in Illinois.

Issued by the Governor May 13, 1998.

Filed by the Secretary of State May 29, 1998.

98-304

MRS. CAROLYN NEUMANN DAY

Whereas, Mrs. Carolyn Neumann has been a teacher for 21 1/2 years; and Whereas, 18 years of teaching has been spent at Bartlett Elementary School in Bartlett, Illinois; and

Whereas, she has touched the lives of more than 540 students with her personalized teaching style which sustains learning; and

Whereas, Mrs. Carolyn Neumann will be retiring in June 1998 and will be sorely missed, not only by her fellow teachers, but also by the Unit 46 School District and students;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1998, as MRS. CAROLYN NEUMANN DAY in Illinois and congratulate Mrs. Neumann on her years of dedication to Bartlett Elementary School and its students.

Issued by the Governor May 13, 1998.

Filed by the Secretary of State May 29, 1998.

98-305

MRS. FAY DIXON DAY

Whereas, Mrs. Fay Dixon has been a teacher for 25 years; and Whereas, 19 years of teaching has been spent at Bartlett Elementary School in Bartlett, Illinois; and

Whereas, she has touched the lives of more than 625 students and has fostered the spirit of learning in them; and

Whereas, Mrs. Fay Dixon will be retiring in June 1998 and will be sorely missed, not only by her fellow teachers, but also by the Unit 46 School District and students;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1998, as MRS. FAY DIXON DAY in Illinois and congratulate Mrs. Dixon on her years of dedication to Bartlett Elementary School and its students.

Issued by the Governor May 13, 1998.

Filed by the Secretary of State May 29, 1998.

98-306

MRS. PEGGY JURGENSEN DAY

Whereas, Mrs. Peggy Jurgensen has been a teacher for 33 1/2 years in the

98-309
AMERICAN GI FORUM DAYS

Unit 46 School District; and
Whereas, 33 1/2 years of teaching has been spent at Bartlett Elementary School in Bartlett, Illinois; and
Whereas, she has touched the lives of more than 640 students with her warmth and caring which has nurtured second graders to excel in their future school years; and
Whereas, Mrs. Peggy Jurgensen will be retiring in June 1998 and will be sorely missed, not only by her fellow students, but also by the Unit 46 School District and students;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1998, as MRS. PEGGY JURGENSEN DAY in Illinois, and congratulate Mrs. Jurgensen on her years of dedication to Bartlett Elementary School and its students.
Issued by the Governor May 13, 1998.
Filed by the Secretary of State May 29, 1998.

98-307
MRS. SUSAN HILL DAY

Whereas, Mrs. Susan Hill has been a teacher for 35 years in the Unit 46 School District; and
Whereas, 34 years of teaching has been spent at Bartlett Elementary School in Bartlett, Illinois; and
Whereas, she has touched the lives of more than 875 students with her unique teaching style which encourages students to strive to achieve their highest educational potential; and
Whereas, Mrs. Susan Hill will be retiring in June 1998 and will be sorely missed, not only by her fellow teachers, but also by the Unit 46 School District and students;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 7, 1998, as MRS. SUSAN HILL DAY in Illinois and congratulate Mrs. Hill on her years of dedication to Bartlett Elementary School and its students.
Issued by the Governor May 13, 1998.
Filed by the Secretary of State May 29, 1998.

98-308
NATIONAL COLLEGE OF CHIROPRACTIC MONTH

Whereas, a world-renowned institution of higher education, The National College of Chiropractic, is located in Lombard, Illinois; and
Whereas, since its founding in 1906, National College has stressed and followed the ideals of the highest possible quality of education and professionalism for its students; and
Whereas, the state of the health of the citizens of Illinois and the world has been greatly enhanced by the existence of this institution and the chiropractic physicians it has produced; and
Whereas, The National College of Chiropractic will hold its annual homecoming June 25-27, 1998, in Oakbrook, Illinois;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1998 as NATIONAL COLLEGE OF CHIROPRACTIC MONTH in Illinois.
Issued by the Governor May 13, 1998.
Filed by the Secretary of State May 29, 1998.

Whereas, thousands of Latino Americans served our country in World War II, returning home only to face denial of their rights as veterans and the basic American freedoms for which they had fought so hard; and
Whereas, the American GI Forum is the nation's largest Hispanic veterans organization, serving both veterans and their communities for more than 40 years; and
Whereas, the American GI Forum is devoted to furthering the interests of Americans of Mexican descent and has participated in projects and programs in Mexican-American communities throughout Illinois; and
Whereas, the activities of the American GI Forum are a source of pride to all citizens of Mexican-American descent as the organization works to enhance the quality of life and create new opportunities for growth and development; and
Whereas, the American GI Forum is celebrating its 43rd Annual State Convention on June 12-13;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 12-13, 1998, as AMERICAN GI FORUM DAYS in Illinois and urge all our citizens to recognize the valuable contributions of our Latino veterans.
Issued by the Governor May 14, 1998.
Filed by the Secretary of State May 29, 1998.

98-310
BUCKLE UP WEEK

Whereas, there are laws in Illinois, as well as in all other 49 states, that require children in motor vehicles to ride buckled in safety restraints; and
Whereas, highly visible enforcement of these laws has proven to be effective in increasing safety belt and child safety seat use; and
Whereas, motor vehicle crashes are the leading cause of death for children ages 0-14, and statistics show that in the United States, an average of eight children ages 0-14 years old were killed and 980 were injured every day in motor vehicle related crashes during 1996; and
Whereas, a study by the National Highway Traffic Safety Administration had affirmed that child safety seats have been found to reduce the risk of fatal injury by 69 percent for infants (less than 1 year old) and by 47 percent for toddlers (1-4 years old); and
Whereas, research has shown that lap/shoulder safety belts, when used, reduce the risk of fatal injury to front seat occupants (age 5 years and older) of passenger cars by 45 percent; and
Whereas, a recent study showed that when a driver is buckled, restraint use for children is 94 percent, but when a driver is unbuckled, restraint use for children in the vehicle drops to only 30 percent;
Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18-25, 1998, as BUCKLE UP WEEK in Illinois.
Issued by the Governor May 14, 1998.
Filed by the Secretary of State May 29, 1998.

DR. H. JAMES MAHAN DAY

Whereas, Dr. H. James Mahan, the leader of Homewood Public Schools, District #153, is retiring after 15 years of service to the Homewood community; and

Whereas, Dr. Mahan found a solid, above average district when he arrived in 1983, and is leaving it in even better condition today; and
Whereas, solid basics, enriching specials, good discipline, fiscal prudence, and teacher and personnel development have all been hallmarks of Jim's time in Homewood; and

Whereas, under his leadership, the district has provided a quality education through its commitment to school improvement plans, attention to individual child-centered educational plans, and by providing the appropriate level of technology enhanced learning; and

Whereas, this commitment to a quality education led to the District twice being nationally recognized for quality as a Blue Ribbon winner; and

Whereas, Dr. H. James Mahan has been a special educator throughout the Homewood school community for many years, and will be missed in future years;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 17, 1998, as **DR. H. JAMES MAHAN DAY** in Illinois and extend best wishes for a happy and fulfilling retirement.

Issued by the Governor May 14, 1998.

Filed by the Secretary of State May 29, 1998.

98-312

HAITIAN FLAG DAY CELEBRATION 1998

Whereas, the State of Illinois is proud to join with the Haitian Community to celebrate this year the 195th anniversary of the Haitian National Flag; and

Whereas, it was in a small town in Arcahaie, Haiti, that on May 18, 1803, the Haitian national hero and first President Jean-Jacques Dessalines created the National Flag; and

Whereas, the Haitian National Flag stands as a symbol of independence, pride and unity. It is that spirit of independence that led Jean Baptiste Point DuSable, a Haitian, to become the founder of the great City of Chicago; and

Whereas, Haitian-Americans should be commended for sustaining and promoting their rich heritage, cultures and traditions; and

Whereas, around the state, Haitian-Americans occupy positions of leadership in education, government, the arts, business, engineering, agriculture, architecture, medicine, chemistry and many other fields; and

Whereas, Haitian Flag Day Celebration 1998 will be held on Saturday, May 16, 1998, at the DuSable Museum of African American History from 4-8 p.m. with a theater performance and a Haitian art exhibit. The Haitian Flag Day Celebration 98 is sponsored by the Haitian Consulate and DuSable Museum of African American History. Admission is free;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1998, as **HAITIAN FLAG DAY CELEBRATION 1998** in Illinois and urge all citizens to recognize the achievements and contributions of Haitian-Americans throughout the State of Illinois.

Issued by the Governor May 14, 1998.

Filed by the Secretary of State May 29, 1998.

98-313

WILLIE B. NELSON SR. DAY

Whereas, Willie B. Nelson, Sr., a dedicated employee of the First Financial Bank, will be retiring after 43 years of service in the banking industry; and

Whereas, Mr. Nelson has served his community as a leader of civic, social and religious organizations in East St. Louis; and
Whereas, Mr. Nelson has been a pioneer in many local organizations and causes; and

Whereas, a luncheon is planned in his honor at the Collinsville, Illinois, Holiday Inn on June 6, 1998, at 12:00 p.m.;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 6, 1998, as **WILLIE B. NELSON SR. DAY** in Illinois.

Issued by the Governor May 15, 1998.

Filed by the Secretary of State May 29, 1998.

98-314

WORKING WOMEN'S AWARENESS WEEK

Whereas, working women comprise nearly half of the U.S. Labor force with more than 61 million women in the workplace; and

Whereas, women in the workforce face added burdens caused by the demands of balancing family life with full-time jobs, demands which include child rearing and caring for dependent adults (parents, grandparents and other relatives); and

Whereas, not all women in the workforce have equal pay and advancement opportunities, they face employment discrimination, have fewer health care benefits, and endure social security and pension inequities; and
Whereas, government, business and labor leaders should make efforts to find solutions to the special problems working women face; and

Whereas, women deserve recognition for the important contributions they make in their workplaces and communities and it is necessary to increase public awareness of those contributions;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 10-16, 1998, as **WORKING WOMEN'S AWARENESS WEEK** in Illinois and urge all citizens to recognize the contributions of women and assist in developing and participating in action programs to meet the changing needs and concerns of working women.

Issued by the Governor May 15, 1998.

Filed by the Secretary of State May 29, 1998.

98-315

ALEX A. SALERNO DAY

Whereas, Alex Salerno is the son of the late Mary and Sam Salerno; and
Whereas, he was raised in the Taylor Street neighborhood of Chicago; and
Whereas, Alex attended Goodrich Elementary School and graduated from Crane Tech High School; and

Whereas, in 1943, he was drafted into the United States Navy and

98-317
FAMILY WEEK

Whereas, the family is the entity that nurtures the values which have made America great. The bonds of familial love are the foundation of our nation's strength; and

Whereas, the trust, duty, respect, and cooperation that are a way of life for family members are traits that reinforce the fabric and function of all societal units from the neighborhood to the nation. The acceptance of each individual family member's uniqueness, teamed with simultaneous, unified strides to improve, gives momentum to our progress as a nation; and

Whereas, appropriately placed with the traditional week of Thanksgiving, National Family Week is a period of thanks for all the contributions the family has made to our country;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim November 22-28, 1998, as FAMILY WEEK in Illinois in conjunction with the national observance.

Issued by the Governor May 18, 1998.

Filed by the Secretary of State May 29, 1998.

98-318

ILLINOIS RIVERS APPRECIATION MONTH

Whereas, Illinois' development as a great state owes much to our rivers, their explorers -- such as Marquette, Joliet, and LaSalle -- and the builders of the forts and later cities along the banks of these rivers -- such as Massac on the Ohio, Starved Rock and Creve Coeur on the Illinois, Kaskaskia on the Mississippi, and Dearborn in Chicago; and

Whereas, Illinois communities, which originally flourished on the banks of the avenues of commerce our rivers provide, are today revitalizing their waterfronts to provide both economical and recreational opportunities while preserving important aspects of their resources and history; and

Whereas, Illinois citizens are becoming increasingly aware of the importance of our rivers as habitat for fish and other aquatic organisms, for recreation, as scenic resources, and for clean drinking water, and of the importance of the riparian corridor for soil conservation and wildlife habitat; and

Whereas, all citizens should be involved in efforts to clean our streams, practice soil conservation, protect scenic areas, and advocate such efforts;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim June 1998 as ILLINOIS RIVERS APPRECIATION MONTH in Illinois to increase public awareness of the importance of our rivers as resources vital to our state.

Issued by the Governor May 18, 1998.

Filed by the Secretary of State May 29, 1998.

completed boot camp at Great Lakes Naval Training Center; and
Whereas, Alex was then assigned aboard the U.S.S. Astoria, CL 90, where he saw action in the South Pacific in many major battles, and at discharge, his rank was Petty Officer Second Class; and
Whereas, upon discharge, he attended Columbia College and Graduated with a Bachelor of Speech degree; and

Whereas, Alex Salerno worked for Polk Brothers for 20 years as a salesman and manager. He retired as a furniture manufacturer representative; and
Whereas, as an active member of Filippo Mazzei Post #1 for 36 years, Alex served in all Post offices, including Post Adjutant for the last 15 years; and

Whereas, at the state level, he served as Officer of the Day, Sergeant at Arms, Adjutant and Senior Vice Commander on three different occasions. He was also elected to the National Executive Committee; and
Whereas, Alex and his wife, Patricia, will be celebrating 50 years of marriage in September. They have two sons, Anthony and the late Alex, and a granddaughter, Celeste;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 23, 1998, as ALEX A. SALERNO DAY in Illinois.

Issued by the Governor May 18, 1998.

Filed by the Secretary of State May 29, 1998.

98-316

BOBBY RAHAL DAY

Whereas, Bobby Rahal has raced with distinction for 17 seasons on the CART FedEx Championship Series; and

Whereas, he was the circuit's rookie of the year in 1985, then became one of only two drivers to win back-to-back PPG Cup titles in 1986-1987. He then won his third PPG Cup title in 1992, his first season as a team owner, partnered with Carl Hogan; and

Whereas, Bobby has 24 career victories, and 18 career poles, he is also a past champion in the 24 Hours of Daytona; and

Whereas, in 251 starts, he has finished in the Top 3 on 87 occasions and the Top 10 on 168 occasions; and

Whereas, Bobby Rahal was twice named Driver of the Year by a nationwide media panel; and

Whereas, Bobby has designated this season as "Rahal's Last Ride" and his Bobby Rahal Foundation will generate and distribute funds raised from sponsors and fans in all 19 CART markets to worthwhile area organization; and

Whereas, Bobby and Team Rahal partner David Letterman hosted several youngsters at Gateway during the inaugural Motorola 300; and

Whereas, he serves on the boards of CART, Road America in Elkhart Lake, Wisconsin, Huntington National Bank and has a minority interest in a NASCAR Craftsman Truck Series team; and

Whereas, Bobby Rahal stated "[t]his last season is allowing us to take a good look at what is making the communities where we race a success. The foundation will present us the chance to contribute to that success in a small but hopefully meaningful way";

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 23, 1998, as BOBBY RAHAL DAY in Illinois.

Issued by the Governor May 18, 1998.

Filed by the Secretary of State May 29, 1998.



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